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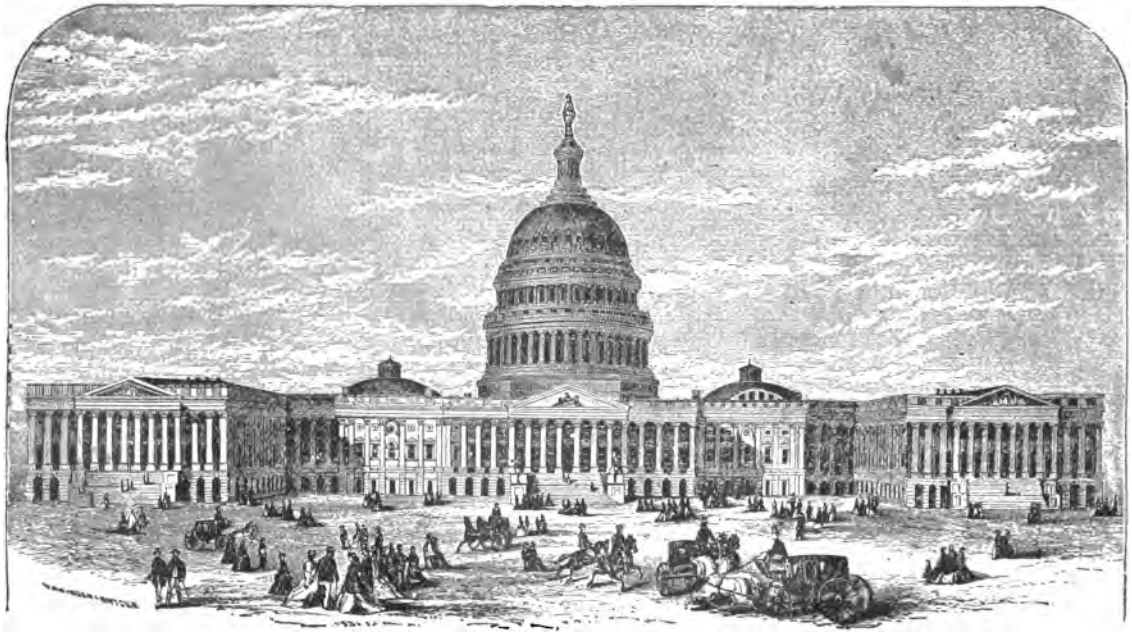
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UNITED STATES CAPITOL.

STUDIES IN CIVICS

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BY

J. T. McCLEARY,

State Normal School, Mankato, Minn.

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J. T. MCCLEARY.
1888.

M'C. CIVICS

Printed at
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Cincinnati, U. S. A.

To

THE MEMBERS OF MY CLASSES IN CIVICS,

WHOSE QUESTIONS

HAVE AIDED ME IN DETERMINING WHAT SUBJECTS TO TREAT,

AND

WHOSE EARNESTNESS AND INTELLIGENCE

HAVE MADE IT A PLEASURE TO BE THEIR TEACHER,

THIS BOOK

IS AFFECTIONATELY INSCRIBED.

PREFACE.

The thought constantly in mind in the preparation of this book has been to furnish useful material in usable form.

Attention is invited to the scope of the work. The Constitution of the United States, not a mere abstract of it but a careful study of the text, is properly given much space but is not allowed a monopoly of it. Each of our governmental institutions deserves and receives a share of consideration. The order of presentation—beginning with the town, where the student can observe the operations of government, and proceeding gradually to the consideration of government in general—is based upon conclusions reached during eighteen years of experience in teaching this subject.

Matter to be used chiefly for reference is placed in the appendix. Attention is asked to the amount of information which, by means of tabulations and other modes of condensation, is therein contained. Documents easily obtainable, such as the Declaration of Independence, are omitted to make room for typical and other interesting documents not usually accessible.

Is this book intended to be an office-holders' manual? No; but it *is* intended to help students to get an insight into the way in which public business is carried on.

Is it designed as an elementary treatise on law? No; but the hope is indulged that the young people who study it will catch something of the *spirit* of law, which to know is to respect.

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TO TEACHERS.

Highly competent teachers are the very ones who receive most kindly suggestions meant to be helpful. For such these words are intended.

The local organizations are so related that it is advisable for all classes to consider each of them. Especial attention should, however, be given to the organization (town, village or city) in which the school is. Here considerable time can be profitably spent, and the matter in the book may be much amplified. Here must be laid the basis of future study.

Certain typical instruments deserve careful study. For a student to have made out understandingly an official bond, for instance, is for him to have gained greatly in intelligence.

It will be of great advantage to the class for the teacher to have a complete set of the papers whose forms are given in Appendix A. These may be obtained at almost any newspaper office, at a cost of about 50 cents.

A scrap-book or series of envelopes in which to file newspaper clippings illustrative of the every-day workings of government, may be made very useful. Pupils should be permitted and encouraged to contribute.

One good way to review is for the teacher to give out, say once in two weeks, a set of twenty-five or more questions, each of which may be answered in a few words; have the pupils write their answers; and the correct answers being given by teacher or pupils, each may mark his own paper. Each pupil may thus discover where he is strong and where weak.

The questions given for debate may be discussed by the literary society. Or for morning exercises, one student may on a certain day present one side of the argument, and on the following day the negative may be brought out by another student.

A student should not be required to submit his good name to the chances of answering a certain set of questions, however excellent, at the examination, when from anxiety or other causes he may fall far short of doing himself justice. One good plan is to allow each student to make up 50 per cent of his record during the progress of the work, by bringing in, say, five carefully prepared papers. One of these may be a *resume* of matter pertaining to his local organization; another may be an account of a trial observed, or other governmental work which the student may have seen performed; a third may be a synopsis of the president's message; the fourth, a general tabulation of the constitution; the fifth, a review of some book on government, or a paper on a subject of the student's own choice.

Among reference books, every school should have at least the Legislative Manual of the state and Spofford's American Almanac. The statutes of the state are also desirable. Minnesota teachers should have, instead of the statutes, Booth's Town Manual and Justice's Manual, costing respectively seventy-five cents and a dollar and a quarter.

The author of this book has in course of preparation (ready August, 1890,) a Teachers' Manual, giving answers to the pertinent questions contained herein, and many useful hints as to the details of teaching Civics.

TO STUDENTS.

You will notice in chapter one that at the close of nearly every paragraph questions are thrown in. They are inserted to help you cultivate in yourself the very valuable habit of rigid self-examination. We are all liable to assume too soon that we have the thought. Not to mar the look of the page, the questions are thenceforward placed only at the close of the chapters.

You will soon discover that these questions are so framed as to require you to read not only *on* the lines and *between* them, but also right down *into* them. Even then you will not be able to answer all of the questions. The information may not be in the book at all. You may have to look around a long time for the answer.

If you occasionally come to a question which you can neither answer nor dismiss from your mind, be thankful for the question and that you are bright enough to be affected in this way. You have doubtless discovered that some of your best intellectual work, your most fruitful study, has been done on just such questions.

After studying a provision of the constitution of the United States, you should be able to answer these four questions: 1. What does it *say*? 2. What does it *mean*? 3. *Why* was the provision inserted? 4. How is it carried into practical effect? Some of the provisions should be so thoroughly committed to memory that at any time they may be accurately quoted. The ability to quote exactly is an accomplishment well worth acquiring.

After you have got through with a line of investigation it is a good thing to make a synopsis of the conclusions reached Hints are given at appropriate places as to how this may be done. But the doing of it is left to you, that you may have the pleasure and profit resulting therefrom.

Finally, without fretting yourself unnecessarily, be possessed of a "noble dissatisfaction" with vague half-knowledge. Try to see clearly. Government is so much a matter of common sense, that you can assuredly understand much of it if you determine so to do.

STUDIES IN CIVICS.

PRELIMINARY CHAPTER.

GOVERNMENT: WHAT IT IS AND WHY IT IS.

At the very beginning of our study, two questions naturally present themselves. First. What is government? Second. Why do we have such a thing?

These questions are much easier to ask than to answer. The wisest men of the ages have pondered upon them, and their answers have varied widely. Yet we need not despair. Even boys and girls can work out moderately good answers, if they will approach the questions seriously and with a determination to get as near the root of the matter as possible.

Beginning without attempting an exact definition of government, because we all have a notion of what it is, we notice that only certain animals are government-forming. Among these may be mentioned the ant, the bee, and man. The fox, the bear, and the lion represent the other class. If we should make two lists, including in one all the animals of the first class and in the other all those of the second class, we should make this discovery, that government-forming animals are

those which by nature live together in companies, while the other class as a rule live apart. The generalization reached is, that *only gregarious animals form governments.* We would discover upon further investigation that the greater the interdependence of the individuals, the more complex the government.

Confining our attention now to man, whose government is the most complex, we may put our generalization into this form: Man establishes government because *by nature he is a social being.* This may be taken as the fundamental reason. Let us now proceed to trace the relation between cause and effect.

In order that people may go from place to place to meet others for pleasure or business, roads are needed. Some of these roads may cross streams too deep for fording, so bridges must be provided. These things are for the good of all; they are public needs, and should be provided by the public. But "what is every body's business is nobody's business." It follows that the public must appoint certain persons to look after such things. By the act of appointing these persons, society becomes to that extent organized. We see, then, that society organizes in order *to provide certain public improvements*, to carry on certain public works.

For his own preservation, man is endowed with another quality, namely, selfishness. Sometimes this is so strong in a person as to cause him to disregard the rights of others. By experience man has learned that *every* person is interested in seeing that conflicting claims are settled on a better basis than that of the relative strength of the contestants. In other words, all are interested in the prevalence of peace and the rightful settlement of disputes. That this work may surely be done, it is obvious that society must appoint

certain persons to attend to it; that is, society organizes *to establish justice.*

Communities take their character from that of the individuals composing them, therefore communities are selfish. A third reason appears, then, for the organization of society, namely, *the common defense.*

But this organization of society is the very thing that we call government. We may, therefore, answer the two questions proposed at the beginning in this way:

Government is the organization of society to carry on public works, to establish justice, and to provide for the common defense.

The term *government* is also applied to the body of persons into whose hands is committed the management of public affairs.

To show that government is a necessity to man, let us imagine a company of about two hundred men, women, and children, who have left their former home on account of the tyranny of the government. So harshly have they been treated, that they have ascribed all their misery to the thing called government, and they resolve that they will have none in their new home. They discover an island in the ocean, which seems never to have been occupied, and which appears "a goodly land." Here they resolve to settle.

They help each other in building the houses; each takes from the forest the wood that he needs for fuel; they graze the cattle in a common meadow; they till a common field and all share in the harvest. For a time all goes well. But mutterings begin to be heard. It is found that some are unwilling to do their share of the work. It becomes manifest to the thoughtful that community of property must be given up and private ownership be introduced, or else that the common work

must be regulated. In the latter case, government is established by the very act of regulation; they are establishing justice. If they resolve to adopt private ownership, industry will diversify, they will begin to spread out over the island, and public improvements will be needed, such as those specified above. The conflict of interests will soon necessitate tribunals for the settlement of disputes. And thus government would, in either case, inevitably be established. A visit from savages inhabiting another island would show the utility of the organization for common defense.

Thus government seems a necessary consequence of man's nature.

In this country we have the general government and state governments, the latter acting chiefly through local organizations. For obvious reasons, the common defense is vested in the general government. For reasons that will appear, most of the work of public improvement and establishing justice is entrusted to the state and local governments.

These we shall now proceed to study, beginning at home.

QUERIES.—Would government be necessary if man were morally perfect? Why is this organization of society called *government?*

PART I.

GOVERNMENT WITHIN THE STATE.

CHAPTER I.

THE TOWN: WHY AND HOW ORGANIZED; OFFICERS; TOWN BUSINESS.

Necessity.—Now instead of a company going to an island to found new homes, let us think of immigrants to a new part of a state.

Like the people on the island, they will need roads, bridges, and schools; and they will desire to preserve the local peace. Hence they, too, will need to organize as a political body.

Size.—Since these people are going to meet at stated periods to agree upon the amounts to be put into public improvements and to select officers to carry out their wishes, the territory covered by the organization should not be very large. It should be of such a size that every one entitled to do so can reach the place of meeting, take part in the work thereof, and return home the same day, even if he has no team.

Basis.—Will anything be found already done to facilitate matters? Yes. Those parts of the state open to settlement will be found surveyed into portions six miles square. These squares are called in the survey

"townships," plainly indicating that they were meant by the general government to be convenient bases for the organization of "towns." And they have been so accepted.

Draw a township. Subdivide it into sections and number them in accordance with the U. S. survey. Subdivide a section into forties, and describe each forty. Why do we have such divisions of a township? Locate your father's farm. What is the difference between a *township* and a *town*?*

Corporate Powers.—A town is in some respects like an individual. It can sue and be sued. It can borrow money. It can buy or rent property needed for public purposes. And it can sell property for which it has no further use. Because a town can do these things as an individual can it is called a corporation, and such powers are called corporate powers.

When we say that "the town" can do these things, we mean of course that the people of the town as a political body can do them, through the proper officers.

Officers Needed.—The town needs one or more persons to act for it in its corporate capacity and to have general charge of its interests.

Should there be one, or more than one? Why? How many are there?

Every business transaction should be recorded, and the town should have a recording officer or secretary.

What is the recording officer in this town called? What is his name? Which officer would naturally be the custodian of public papers?

It takes money to build bridges and to carry on other public works, and the town needs some one to take charge of the public funds.

What is the officer called? Who occupies that position in this town? How is he prevented from misappropriating the money belonging to the people?

*In some states the terms "congressional township" and "civil township" are used.

Our plan for raising public money for local purposes is, in general, that each person shall contribute *according to the value of his property.* Hence the town needs a competent and reliable man to value each person's property.

What is such an officer called? What is the name of the one in this town? Is any property exempt from taxation? Why? Just how is the value of the real estate in the town ascertained for the purpose of taxation? The value of the personal property? Get a list and find out what questions this officer asks. Read the statement at the bottom of the list carefully, and then form an opinion of a person who would answer the questions untruthfully for the purpose of lowering his taxes.

The immediate care of the roads will demand the attention of one or more officers.

How many in this town? What are such officers called? Name them.

Differences about property of small value sometimes arise, and to go far from home to have them settled would involve too much expense of time and money; hence the necessity of local officers of justice. These officers are needed also because petty acts of lawlessness are liable to occur.

How many justices of the peace are there in each town? Why that number? What is the extent of their jurisdiction?

The arrest of criminals, the serving of legal papers, and the carrying out of the decisions of justices of the peace, make it necessary to have one or more other officers.

What are such officers called? How many in each town? Why? Look up the history of this office; it is interesting.

The public schools of the town may be managed either by a town board of trustees, who locate all of the school-houses, engage all of the teachers, and provide necessary material for all of the schools in the town; or the town may be divided into districts, the

school in each being managed by its own school board.

Does the township system or the district system prevail in this state? Name some state in which the other system prevails.

How Chosen.—In this country most of the public officers are chosen by the people interested. The great problem of election is how to ascertain the real will of those entitled to express an opinion or have a choice. And all the arrangements for conducting elections have in view one of two things: either to facilitate voting or to prevent fraud. The town serves as a convenient voting precinct.

Find out from the statutes or from the town manual or by inquiry, when the town meeting is held; how notice is given; how it is known who may vote; who are judges of election; how many clerks there are; how voting is done; how the votes are counted and the result made known; what reports of the election are made. Give the reason for each provision. Can a person vote by proxy? Why? What is to prevent a person from voting more than once? If the polls are open seven hours, and it takes one minute to vote, how many persons can vote at one polling place? What may be done in case there are more than that number of voters in the town? How are road overseers elected, and in what part of the day? Why then? What other business is transacted at town meeting? How do the people know how much money will be needed for the coming year's improvements? How do they learn the nature and expense of last year's improvements?

Give four general reasons for our having towns.

PRACTICAL WORK FOR STUDENTS.

I. Organizing a Town.

Prepare in due form a petition to the proper authorities asking that a new town be organized.* Be sure that the order establishing the new town is duly made out, signed, attested and filed. Give reasons for each step.

* For forms see Appendix. If necessary, all the pupils in the room or school may act as "legal voters."

II. Holding Annual Town Meeting.

1. Preliminary.—What report does each road overseer make to the supervisors? When is the report due? What do the supervisors require this information for?

Who gives notice of the town meeting? When? How?

When does the town treasurer make his report to the persons appointed to examine his accounts? When does this examination take place? What is its purpose?

What report does the board of supervisors make to the people at the town meeting? When is it prepared? Why is it necessary?

Why so many preliminaries?

2. The Town Meeting.—That everything may be done "decently and in order," it will be necessary to consult carefully the statutes or the town manual. Be sure.

(*a*) That the proper officers are in charge.

(*b*) That the order of business is announced and followed.

(*c*) That the polls are duly declared open.

(*d*) That the voting is done in exact accordance with law.

(*e*) That general business is attended to at the proper time.

(*f*) That reports of officers are duly read and acted upon.

(*g*) That appropriations for the succeeding year are duly made.

(*h*) That the minutes of the meeting are carefully kept.

(*i*) That the polls are closed in due form.

(*j*) That the votes are counted and the result made known according to law.

(*k*) That all reports of the meeting are made on time and in due form.

3. After Town Meeting.—See that all officers elected "qualify" on time and in strict accordance with law. Especial care will be needed in making out the bonds.

Town clerk must certify to proper officer the tax levied at town meeting.

Laying Out and Maintaining Roads.

1. Laying out a Road.—Make out a petition for a town road, have it duly signed and posted. In due season present it to the supervisors who were elected at your town meeting.

The supervisors, after examining the petition carefully and being sure that it is in proper form and that it has been duly posted, will appoint a time and place of hearing and give due notice thereof.

When the day of hearing arrives they will examine the proofs of the posting and service of the notices of hearing before proceeding to act upon the petition.

Having heard arguments for and against the laying of the road, the supervisors will render their decision in due form.

In awarding damages, the supervisors will probably find four classes of persons: first, those to whom the road is of as much benefit as damage, and who admit the fact; second, those who should have damages, and are reasonable in their demands; third, those who claim more damages than they are in the judgment of the supervisors entitled to; and fourth, those who from some cause, (absence, perhaps,) do not present any claim. From the first class, the supervisors can readily get a release of damages. With the second, they can easily come to an agreement as to damages. To the third and fourth, they must make an award of damages. Let all of these cases arise and be taken care of.

The supervisors must be careful to issue their road order in proper form, and to see that the order, together with the petition, notices, affidavits and awards of damages, are filed correctly and on time. The town clerk must read the law carefully to ascertain his duty, and then perform it exactly. See that fences are ordered to be removed. Let one of the persons who feels himself aggrieved by the decision of the supervisors, "appeal" to a proper court. Let this be done in due form. As each step is taken, let the reasons for it be made clear.

2. Maintaining Roads.—Road overseers return the list of persons liable to road labor. How are these facts ascertained, and when must the "return" be made.

Supervisors meet and assess road labor, and sign road tax warrants. When and how is this done?

How is the road tax usually paid? How else may it be paid? How does the overseer indicate that a person's tax is paid? If a person liable to road tax does not "commute," and yet neglects or refuses to appear when duly notified by the road overseer, what can the latter do about it? How is delinquent road tax collected? How can a person who has paid his tax prove that he has paid it?

Under which of the three great purposes of government mentioned in the preliminary chapter does the making of roads come?

THE TOWN—*Continued.*

THE SCHOOLS.

Does the town system or the district system prevail in this state? If the latter, tell how a school district is organized. Give an account of the organization of this district.

How many and what officers have charge of the schools? State the duties of each. Name the officers in this district. When are the officers chosen, and how long do they serve? Are

all chosen at once? Why? How do they "qualify?" Are women eligible to school offices? To any other?

Did you ever attend the annual meeting? When is it held? Why held then? Who take part? What business is tansacted? What are "special" school meetings?

What expenses must be met in having a school? Where does the money come from? How does the treasurer get it into his possession? What is to prevent his misusing it?

By whom is the teacher chosen? Why not elect the teacher at the annual meeting? Get a teacher's contract and find out who the contracting parties are, and what each agrees to do. Why is the contract in writing? How many copies of it are made? Who keep them, and why?

If you had a bill against the district, how would you proceed to get your money? If the district refused or neglected to pay you, what could you do? If some one owed the district and refused to pay, what could it do?

Who owns the school buildings and grounds? How was ownership obtained? If it seemed best to erect a new school-house in some other part of the district, what could be done with the present buildings and grounds? Could the district buy land for other than school purposes? Could it lend money if it had any to spare? If the district had not money enough to erect its buildings, what could it do? What are the corporate powers of a district?

Questions for Debate.

Resolved, That it is unfair to tax a bachelor to support a school.

Resolved, That the town system is better that the district system.

CHAPTER II.

Primitive Modes of Administering Justice.

Trial by Ordeal.—Boys settle some matters about which they cannot agree by "tossing up a penny," or by "drawing cuts." In a game of ball they determine "first innings" by "tossing the bat." Differences in a game of marbles, they settle by guessing "odd or even," or by "trying it over to prove it." In all these modes of adjustment there is an appeal to *chance.*

Probably behind these practices is the feeling that the boy who ought to win will somehow guess right. This appealing to chance to settle questions of fact is characteristic of society in its primitive state. Modes of establishing justice similar in principle to these boy practices prevail to this day a nong superstitious peoples. They have prevailed even in Europe, not only among people of low mental power, but also among the cultured Greeks. Among our own Saxon ancestors the following modes of trial is known to have been used: A person accused of crime was required to walk blindfolded and barefoot over a piece of ground on which hot ploughshares lay at unequal distances, or to plunge his arm into hot water. If in either case he escaped unhurt he was declared innocent. This was called Trial by Ordeal. The theory was that Providence would protect the innocent.

Trial by Battle.—Sometimes boys settle their disputes by *fighting*. This, too, was one of the modes of adjudication prevalent in early times among men. Trial by Battle was introduced into England by the Normans. "It was the last and most solemn resort to try titles to real estate."* The duel remained until recently, and indeed yet remains in some countries, as a reminder of that time. And disputes between countries are even now, almost without exception, settled by an appeal to arms. Perhaps the thought is that "he is thrice armed that hath his quarrel just." Sometimes when one of the boys is too small to fight for his rights, another boy will take his part and fight in his stead. Similarly, in the Trial by Battle, the parties could fight personally or by "champion."

* Dole's Talks about Law, p. 53.

Interesting accounts of this mode of trial are given by Green and Blackstone, and in Scott's "Talisman."

Arbitration.—Two boys who have a difference may "leave it to" some other boy in whom they both have confidence. And men did and do settle disputes in a similar way. They call it settlement by Arbitration.

A boy would hardly refer a matter for decision to his little brother. Why?

Folk-Moot.—Still another common way for two boys to decide a question about which they differ is to "leave it to the boys," some of whom are knowing to the facts and others not. Each of the disputants tells his story, subject to more or less interruption, and calls upon other boys to corroborate his statements. The assembled company then decides the matter, "renders its verdict," and if necessary carries it into execution. In this procedure the boys are re-enacting the scenes of the *Folk-moot* or town meeting of our Saxon ancestors.

Boy-Courts.—Let us look at this boy-court again to discover its principal elements.

In the first place, we see that *every* boy in the crowd feels that he has a right to assist in arriving at the decision, that "the boys" collectively are to settle the matter. In other words, that *the establishment of justice is a public trust.* So our Saxon forefathers used to come together in the Folk-moot and as a body decide differences between man and man. The boys have no special persons to perform special duties; that is, no court officers. Neither, at first, did those old Saxons.

Secondly, in the boy-court the *facts* in the case are brought out by means of *witnesses.* So it was in the

Folk-moot, and so it is in most civilized countries today. Among those old Saxons the custom grew up of allowing the facts in the case to be determined by *twelve* men of the neighborhood, *who were most intimately acquainted with those facts.* When they came over to England these Saxons brought this custom with them, and from it has been developed the Trial by Jury. The colonists of this country, most of whom came from England, brought with them this important element in the establishment of justice, and it is found today in nearly all the states.

Again, when in the boy-court the facts of the case have been established and it becomes necessary to apply the rules of the game to the particular case, the boys frequently, invariably in difficult cases, turn to some boy or boys known to be well versed in the principles of the game, and defer to his or their opinion. And, similarly, in the Folk-moot, much deference was paid in rendering judgment to the old men who for many years had helped to render justice, and who, in consequence, had much knowledge of the customs, unwritten laws, in accordance with which decisions were rendered. In this deference to one or more persons who are recognized as understanding the principles involved in the case, we see the germ of *judgeship* in our present courts.

And finally, a boy naturally reserves the right, mentally or avowedly, of *appealing* from the decision of the boys to the teacher or his father, in case he feels that he has been unjustly dealt with.

Thus we see that the principal elements of the courts of today, the establishment of justice as a public trust, the determination of the facts by means of witnesses

and a jury, the application of the law by one or more judges, the right of appeal to a higher court, are not artificial, but in the nature of things. We inherited them from our primitive ancestors, and in that sense they may be said to have been imposed upon us. But their naturalness appears in the fact that boys when left to themselves introduce the same elements into their boy-courts.

Changes Made in Course of Time.

In the Jury System.—The jurors were originally, as has been said, persons acquainted with the facts. After the Norman conquest, it came about that the jury consisted of twelve persons disinterested and *unacquainted* with the facts. Probably the change gradually came about from the difficulty of getting twelve men eligible to the jury who knew of the facts. Persons ineligible to the jury were then invited to give it information, but not to join it in the verdict. The next step, taken about 1400 A. D., was to require these witnesses to give their evidence in open court, subject to examination and cross-examination. The testimony of the witnesses, however, was still merely supplementary. Then in the time of Queen Anne, about 1707 A D, it was decided that any person who had knowledge of the facts of the case should appear as a *witness*, that the jury should consist of persons unacquainted with the facts, and that the verdict should be rendered in accordance with the evidence. And so it is to this day, both in England and America.*

"It is not true, however, that a man is disqualified

* The best history of the jury system is probably Forsyth's.

from serving on a jury simply because he has heard or read of the case, and has formed and expressed some impression in regard to its merits; if it were, the qualifications for jury service in cases that attract great attention would be ignorance and stupidity. The test, therefore, is not whether the juryman is entirely ignorant of the case, but whether he has formed such an opinion as would be likely to prevent him from impartially weighing the evidence and returning a verdict in accordance therewith."*

In the Officers.—As has been said, there were in the old Saxon courts no court officers. But quite early the necessity for such officers became manifest. And several of the offices then established have come down to us. Some of them, however, have been so modified in the progress of time as to be hardly recognizable.

CHAPTER III.

Proceedings in a Justice Court.

I. In Ordinary Civil Actions.

Definitions.—A *Civil Action* is one having for its object the protection or enforcement of a private right or the securing of compensation for an infraction thereof. For instance a suit brought to secure possession of a horse, or to secure damages for a trespass is a civil action. The person bringing the action is called the

*Dole's Talks about Law, p. 59.

plaintiff; the one against whom it is brought, the *defendant.* The plaintiff and the defendant are called the *parties* to the action.

Jurisdiction.—A justice of the peace has jurisdiction within the county in most civil actions when the amount in controversy does not exceed a certain sum, usually one hundred dollars. See p. 296.

PRELIMINARY TO TRIAL.

Complaint and Summons.—In bringing a civil action, the plaintiff or his agent appears before the justice of the peace and files a complaint. In this he states the cause of the action. The justice then issues a summons. This is an order to a sheriff or constable commanding him to notify the defendant to appear before the justice at a certain time and place to make answer to the plaintiff's demands. (Form on p. 277.)

Sometimes on bringing an action or during its progress a writ of attachment is obtained. To secure this writ, the creditor must make affidavit to the fact of the debt, and that the debtor is disposing or preparing to dispose of his property with intent to defraud him, or that the debtor is himself not reachable, because hiding or because of non-residence. In addition, the creditor must give a bond for the costs of the suit, and for any damages sustained by the defendant. The justice then issues the writ, which commands the sheriff or constable to take possession of and hold sufficient goods of the debtor and summon him as defendant in the suit.

Another writ sometimes used is the writ of replevin. To secure this writ, the plaintiff must make affidavit that the defendant is in wrongful possession of certain

(described) personal property belonging to the plaintiff. The plaintiff then gives a bond for the costs of the suit and for the return of the property in case he fails to secure judgment, and for the payment of damages if the return of the property cannot be enforced, and the justice issues the writ. This commands the sheriff or constable to take the property described and turn it over to the plaintiff, and to summon the defendant as before.

Pleadings.—The next step in the process, in any of the cases, is the filing of an answer by the defendant, in which he states the grounds of his defense. The complaint of the plaintiff and the answer of the defendant constitute what are called the pleadings.* If the answer contains a counter-claim, the plaintiff is entitled to a further pleading called the reply. The pleadings contain simply a statement of the facts upon which the parties rely in support of their case. No evidence, inference or argument is permitted in them.

Issue.—It is a principle of pleading that "everything not denied is presumed to be admitted." The fact or facts asserted by one party and denied by the other constitute the issue. If the defendant does not make answer on or before the day appointed in the summons and does not appear on that day, judgment may be rendered against him. If the plaintiff fail to appear, he loses the suit and has to pay the costs. For sufficient cause either party may have the suit adjourned or postponed for a short time.

Jury.—On demand of either party a jury must be impaneled. The jury usually consists of twelve persons, but by consent of the parties the number may be

*For a more extensive discussion of pleadings, see chapter VII.; or Dole, pp. 36–42.

less. The jury is impaneled as follows: The justice directs the sheriff or constable to make a list of twenty-four inhabitants of the county qualified to serve as jurors in the district court, or of eighteen if the jury is to consist of six persons. Each party may then strike out six of the names. The justice then issues a venire* to the sheriff or a constable, directing him to summon the persons whose names remain on the list to act as jurors.

Witnesses.—If any of the witnesses should be unwilling to come, the justice issues a subpœna† commanding them to appear. The subpœna may contain any number of names and may be served by any one. It is "served" by reading it to the person named therein, or by delivering a copy of it to him. A witness, however, is not bound to come unless paid mileage and one day's service in advance.

THE TRIAL.

Opening Statement.—The usual procedure is as follows: After the jury has been sworn, the plaintiff's attorney reads the complaint and makes an opening statement of the facts which he expects to prove. The purpose of the opening statement is to present the salient points of the case, so that the importance and bearing of the testimony may be readily seen by the jury.

Evidence.—The evidence‡ for the plaintiff is then introduced. Each witness, after being duly sworn, gives his testimony by answering the questions of counsel. After the direct examination by the plaintiff's

* For forms, see page 280.
† For forms, see page 279.
‡ The most important Rules of Evidence are given in chapter VII.

attorney, the witness may be cross-examined by the attorney for the defendant. When the evidence for the plaintiff is all in, the defendant's attorney makes his opening statement, and then the witnesses for the defense are examined. The direct examination is now, of course, conducted by the counsel for the defendant, and the cross-examination by opposing counsel. When all the evidence for the defense has been introduced, the plaintiff may offer evidence in "rebuttal," that is, to contradict or disprove new matter adduced by the defense. And the defendant may then introduce evidence to refute matter first brought out by the rebuttal.

Argument.—The case is now ready for "argument." The counsel in turn address the jury and try to show that the evidence adduced has proved the facts alleged in the pleadings, and each asks for a decision in favor of his client. Usually the side upon which rests the burden of proof has the closing argument. Counsel must confine themselves to the law, the admitted facts and the evidence.

Verdict.—The jury then retire in care of an officer to a room set apart for their use. Here they deliberate in secret. If after a reasonable time they cannot agree, they are discharged, and the case stands as if no trial had taken place. But if they agree they return to the court room and render their verdict. This is given by the foreman, and is assented to by the rest.

Judgment.—After the verdict, the justice enters judgment in accordance therewith. Judgment may include certain sums of money allowed to the successful party in part compensation of his expenses. Such allowances are called "the costs."

AFTER THE TRIAL.

Appeal.—If the defeated party feels that he has not been justly dealt with, he may appeal his case to a higher court. He must make affidavit that the appeal is not taken for the purpose of delay, and must give bonds to cover the judgment and the costs of appeal. The higher court affirms or reverses the judgment, in the latter case granting a new trial.

Sometimes the case is tried anew in the higher court, just as if there had been no trial in the justice court.

Execution.—If no appeal is taken the defeated party may "satisfy" the judgment, that is, pay to the justice the sum specified therein. If at the expiration of the time allowed for appeal the judgment remains unsatisfied, the justice may issue an execution* against the property of the debtor.

II. In Criminal Actions.

Jurisdiction.

Justices of the peace have jurisdiction throughout their respective counties, as follows:

1. *To try* charges where the punishment prescribed by law does not exceed a fine of one hundred dollars or imprisonment for three months.†

2. *To examine* persons charged with crimes greater than those specified above, and to dismiss them or hold them for trial in a court having jurisdiction, as the facts seem to warrant.

3. *To prevent* crimes, by requiring reckless persons to give security to keep the peace.

* For forms, see Appendix.
† The extent of this jurisdiction varies somewhat in different states.

PROCEEDINGS IN CRIMINAL TRIAL.

Preliminary.

Complaint.—If a crime has been committed, the sufferer, or any one else, may appear before the justice of the peace and make complaint, under oath, specifying the nature of the crime, the time of its commission, and the name of the person believed to have perpetrated it, and requesting that he be apprehended for trial.

Warrant.—If upon careful examination of the complainant and any witnesses whom he may bring, it appears that the offense has probably been committed, the justice issues a warrant, reciting the substance of the complaint, and commanding an officer to arrest the accused and produce him for trial.

Return.—The officer arrests the accused, brings him before the justice, and makes a return of the warrant. The return is a statement on the back of the warrant telling how its commands have been executed.

Bail.—The accused is entitled to a speedy trial. But if for good cause it seems best to postpone it, the accused may be released from custody upon giving sufficient bail for his appearance at the time fixed for trial. If he cannot furnish bail, he is committed to jail or left in charge of the officer.

Subpœna.—One good reason for postponing a trial is to enable the parties to secure witnesses. To this end, the justice issues subpœnas. But in this case the witnesses must come without the tender of the fee.

The Trial.

Arraignment.—The first step in the trial proper is

to inform the defendant of the nature of the crime with which he is charged. The accusation, as stated in the warrant, is distinctly read to him by the justice, and he is required to plead thereto. If he pleads guilty, conviction and sentence may follow at once. If he pleads not guilty, the trial proceeds.

Trial.—After the joining of issue, and before the court proceeds to the examination of the merits of the case, a jury is impaneled as in a civil action. A jury may be waived by the defendant. Then follow the taking of the testimony, the arguments of counsel, the charge by the justice, the consideration and verdict by the jury. The defendant is then discharged if not guilty, or sentenced if found guilty. The penalty will, of course, depend upon the nature of the offense.

PROCEEDINGS IN EXAMINATION.

Need of Examination.—Over crimes punishable by fine greater than $100 or imprisonment for more than three months, a justice of the peace usually has no jurisdiction of trial. The action must be tried in the district court, on the indictment of a grand jury. But in the meantime the perpetrator of a crime might escape. To prevent this, the accused may be arrested and examined by a justice of the peace, to ascertain whether or not there are sufficient grounds for holding him for trial.

Proceedings.—The preliminary proceedings are precisely like those in case of a trial. Upon complaint duly made a warrant is issued, and the accused is arrested and brought before the justice. In the presence of the accused, the magistrate examines the complainant and witnesses in support of the prosecution, upon oath, "in relation to any matter connected with such charge which may be deemed pertinent."

Rights of Accused. — The accused has a right to have witnesses in his behalf, and to have the aid of counsel, who may cross-examine the witnesses for the prosecution.

The Result.—If it appears upon examination that the accused is innocent of the crime, he is discharged. If his guilt seems probable, he is held to await the action of the grand jury. In the case of some offenses bail may be accepted. But if no suitable bail is offered, or if the offense is not bailable, the accused is committed to jail. Material witnesses for the prosecution may be required to give bonds for their appearance at the trial, or in default thereof may be committed to jail.

Reports.—The justice makes a report of the proceedings in the examination, and files it with the clerk of the court before which the accused is bound to appear for trial.

PROCEEDINGS FOR PREVENTING CRIME.

Prefatory.—But it is better to prevent crime than to punish it. Indeed, one reason for punishing wrong-doers is that the fear of punishment may deter people from committing crime.

Proceedings.—As a conservator of the public peace, then, a justice may require persons to give bonds for good behavior. The preliminary proceedings are similar to those in the case of a trial—the complaint, warrant and return. But the complainant simply alleges upon oath, that a crime against his person or property has been threatened. The examination is conducted as in case of a criminal offense.

Result.—If upon examination there appears reason to fear that the crime will be committed by the party complained of, he shall be required to enter into recog-

nizance to keep the peace, failing in which he shall be committed to jail for the time to be covered by the surety, said time not to exceed six months.

REMARKS ON CRIMINAL TRIALS.

The care for the rights of the accused is based upon the principle in our law, that every man shall be held innocent till *proved* guilty. Another principle is that a person accused of crime *cannot be tried in his absence.* The purpose of arresting him is to secure his *presence* at the trial. If he can guarantee this by bail he is set at liberty, otherwise he is confined in jail. See p. 231.

Pertinent Questions.

Are the justices and constables town, county or state officers? How is it known at the county seat who the justices and constables in each town are? Define docket, summons, warrant, pleading, subpœna, crime, felony, misdemeanor, venire, costs, execution, recognizance. Why are there two justices in each town? What is meant by "change of venue?" How is an oath administered in court? What persons may not serve as witnesses? If a criminal should make confession of the crime to his lawyer, could the lawyer be subpœnaed as a witness on the trial? Name some things "exempt from execution" in this state. What is to hinder a bitter enemy of yours, if you have one, from having you committed to prison. Can a *civil* suit proceed in the absence of the defendant?

Practical Work.

Assume that John Smith bought from Reuben White a cow, the price agreed upon being $30; that Smith refuses to pay, and White sues him. Write up all the papers in the case, make proper entries in the docket, assessing costs, etc.

CHAPTER IV.

The Incorporated Village.

Need of.—Owing to conditions, natural and artificial, favorable to business enterprises, people group together in certain places. Living in a limited area, the amount of land occupied by each family is small, and the territory is surveyed into lots and blocks. To make each homestead accessible, streets are laid out. The distances traveled being short, people go about principally on foot; hence the need of sidewalks. To reduce the danger of going about after dark, street-lamps are needed. The nearness of the houses to each other renders it necessary to take special precautions for the prevention of fires, and for their extinguishment in case they break out.

But to provide and maintain all these things takes money, and the people living in the other parts of the town not sharing the benefits would hardly like to help pay for them. Hence it is but just that the people living in the thickly settled portion of the town should be permitted to separate from the rest and form an organization by themselves.

Again, the circumstances being different, the regulations must be different in this part of the town. For instance, in the country a man may drive as fast as he pleases, while here fast driving endangers life and must be prohibited. In the country sleigh-bells are not needed, while here they must be used to warn people of the approach of teams. In the country, if a man's house takes fire no other person's property is endangered; but here the danger is such that all the people are interested in each man's house, and the com-

munity may require that chimneys be properly constructed and ashes safely disposed of.

How Incorporated.—Villages are, with rare exceptions, incorporated under a general law specifying the number of inhabitants, the mode of voting on incorporation, etc.

The method in Minnesota, which may be taken as typical, is as follows: Upon petition of thirty or more voters resident upon the lands to be incorporated, which lands have been divided into lots and blocks, the county commissioners appoint a time, and give due notice thereof, when the voters "actually residing within the territory described," may vote upon the question. If a majority of those voting favor incorporation, the commissioners file with the register of deeds the original petition, a true copy of the notice of election, and the certificate showing the result of the vote. The village is thus incorporated, and has the usual corporate powers. It organizes by electing officers.

Elective Officers.—The elective officers of a village are a president, three trustees, a treasurer, and a recorder, who are chosen for one year, and two justices of the peace and a constable, elected for two years.*

The Council and Its Powers.—The president, the three trustees, and the recorder constitute the village council. They may make for the following purposes among others, such ordinances or by-laws as they deem necessary.

1. To establish and regulate a fire department; to purchase apparatus for extinguishing fires; to construct water-works; to designate limits within which wooden

* The difference in term is accounted for by the fact that the justices and constables are in a measure county officers.

buildings shall not be erected; to regulate the manner of building and cleaning chimneys, and of disposing of ashes; and generally to enact such necessary measures for the prevention or extinguishment of fires as may be proper.

2. To lay out streets, alleys, parks, and other public grounds; to grade, improve, or discontinue them; to make, repair, improve, or discontinue sidewalks, and to prevent their being encumbered with merchandise, snow or other obstructions; to regulate driving on the streets; to appoint a street commissioner.

3. To erect lamp-posts and lamps, and provide for the care and lighting of the lamps.

4. To appoint a board of health, with due powers; to provide public hospitals; to regulate slaughter-houses; to define, prevent, and abate nuisances.

5. To establish and maintain a public library and reading-room.

6. To prohibit gambling; to prevent, or license and regulate the sale of liquor, the keeping of billiard-tables, and the exhibition of circuses and shows of all kinds; to appoint policemen, and provide a place of confinement for offenders against the ordinances.

7. In general, "to ordain and establish all such ordinances and by-laws for the government and good order of the village, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of trade and commerce, and the promotion of health, not inconsistent with the constitution and laws of the United States or of this state, as they shall deem expedient," and to provide penalties for the violation of the ordinances.

All fines and penalties imposed belong to the village.

Appointive Officers.—The council appoints, whenever it seems necessary, a village attorney, a pound-master, one or more keepers of cemeteries, one or more fire-wardens, and regular and special policemen; and it prescribes the duties and fixes the compensation of these officers. The council also elects at its first meeting, a village assessor, who shall hold his office one year.

Vacancies and Removals.—Vacancies in any of the village offices are filled by the council, and it has power to remove any officer elected or appointed by it whenever it seems that the public welfare will be promoted thereby.

Like Town Officers.—The assessor, treasurer, justices of the peace, and constable, have the same duties and responsibilities as the corresponding officers in the town. The village has a seal, of which the recorder is the custodian; and he is, as has been said, a member of the council. Otherwise the duties of the recorder are similar to those of the town clerk.

Elections.—A village constitutes one election district and one road district. Village elections are conducted as are those in a town.

Enlargements.—Lands adjoining the village may be annexed to it, at the wish and with the consent of the voters of the territory and of the village. The will of the voters aforesaid is expressed at an election called, after due notice, by the county commissioners.

Some Pertinent Questions.

Name the incorporated villages in your county. Any others that you know. Name some villages, so-called, which are not incorporated. Why are the petition and other papers of incorporation recorded?

Can a person living in a village build a sidewalk to suit his own fancy? Why? Suppose that owing to a defective side-

walk you should break your leg, what responsibility would lie on the village?

How would you get your pay if you had a bill against a village?

The village council has power "to establish and regulate markets." Why should the sale of meats be regulated any more than the sale of flour or of clothing? May the sale of bread be regulated?

What is the difference between a policeman and a constable.

Compare the village and the town, telling wherein they are alike and wherein they are different.

Debate.

Resolved, That for a village of 1000 inhabitants or less it is wise not to become incorporated.

CHAPTER V.

The City.

Need of.—A village being one election district has only one polling place. The community may increase so in numbers as to make it necessary to have several voting places. For the accommodation of the people, these would naturally be located in different parts of the community; and to prevent fraud, voting precincts would have to be carefully defined. The council would naturally be made up of representatives from these divisions.

When, under this arrangement, the voters assemble in different parts of the community, they could not listen to financial reports and vote taxes, as they do in the town and the village. Hence it would be necessary to endow the council with increased powers, including the power to levy taxes without the direct authorization of the people.

The expenses for public improvements, for water-

works, sewers, street-lighting, etc., may take more money than it would be prudent to assess upon the community for immediate payment. In this case it would be desirable for the community to have the power to issue bonds.

Again, with increase in population there is an increase in the number of disputes over private rights, and temptations to crime become more numerous. Hence the need of one or more courts having jurisdiction greater than that possessed by justices of the peace. The conditions necessitate also an increase in the number and the efficiency of the police. And to render the police efficient it is necessary that they be under the direction of one man, the same one who is responsible for the carrying out of the ordinances of the council.

A community organized to comply with the foregoing requirements—divided into wards, having a council made up of aldermen from those wards, having a council authorized to levy taxes at its discretion, having the power to issue bonds, having a municipal court, having regularly employed police acting under the direction of the mayor—is a city.

Another reason for establishing a city government is frequently potent, although unmentioned. The pride of the community can be thereby indulged, and more citizens can have their ambition to hold public office gratified.

How Organized.—A city may be organized under general law or special charter from the legislature. Large cities, and small ones with *great expectations*, usually work under a charter. But the custom is growing of organizing cities at first under general law. Then if a city outgrows the general law, grows so that

it needs powers and privileges not granted therein, it may properly ask the legislature for a special charter.

As a type, the principal provisions of the general law of Minnesota are here given, as follows:

"Whenever the legal voters residing within the limits of a territory comprising not less than two thousand inhabitants, and not more than fifteen thousand, and which territory they wish to have incorporated as a city, shall sign and have presented to the judge of probate of the county in which such territory is situated, a petition setting forth the metes and bounds of said city, and of the several wards thereof, and praying that said city shall be incorporated under such name as may therein be designated, the judge of probate shall issue an order declaring such territory duly incorporated as a city, and shall designate the metes, bounds, wards, and name thereof, as in said petition described." And the judge of probate designates the time and places of holding the first election, giving due notice thereof. He also appoints three persons in each ward, of which there shall be not less than two nor more than five, to act as judges of election. The corporation is established upon the presentation of the petition, and the organization is completed by the election of officers.

The elective officers of a city are a mayor, a treasurer, a recorder, one justice of the peace for each ward, styled "city justice," all of whom shall be qualified voters of the city, and two aldermen for each ward, who shall be "qualified voters therein." All other city officers are appointed.

The term of city justices and aldermen* is two years; that of the other officers, one year.

* One alderman is elected in each ward each year.

Any officer of the city may be removed from office by vote of two-thirds of the whole number of aldermen. But an elective officer must be given "an opportunity to be heard in his own defense."

A vacancy in the office of mayor or alderman is filled by a new election. A vacancy in any other office is filled by appointment. The person elected or appointed serves for the unexpired term.

The Mayor is the chief executive officer and head of the police of the city. By and with the consent of the council, he appoints a chief of police and other police officers and watchmen. In case of disturbance he may appoint as many special constables as he may think necessary, and he may discharge them whenever he thinks their services no longer needed.

The City Council consists of the aldermen.* It is the judge of the election of its own members. A majority of the members elected constitutes a quorum for the transaction of business.

The council chooses its own president and vice-president. In case the mayor is absent from the city or for any reason is temporarily unable to act, the president of the council acts as mayor, with the title Acting Mayor.

Passing Ordinances.—The mode of passing an ordinance is unlike anything that we have considered up to this time, and deserves special attention on account of its resemblance to the mode of making laws in the state and general governments. It is as follows: If a proposed ordinance is voted for by a majority of the members of the council present at any meeting, it is presented to the mayor. If he approves it, he signs

*In some states the city council consists of two bodies, aldermen and councilors.

it, and it becomes an ordinance. But if he does not approve it, he returns it, through the recorder, to the council, together with his objections.* The council, then reconsiders the proposed ordinance in the light of the mayor's objections. If, after such reconsideration, two-thirds of the members elected vote for it, it becomes an ordinance, just as if approved by the mayor. "If an ordinance or resolution shall not be returned by the mayor within five days, Sundays excepted, after it shall have been presented to him," it shall have the same effect as if approved by him.

Publication of Ordinances. — The ordinances and by-laws of the council are published in a newspaper of the city, selected by the council as the official means of publication, and are posted in three conspicuous places in each ward for two weeks, before they become operative.

Council Powers.—The city council has about the same powers as a village council in regard to streets, the prevention and extinguishment of fires, etc.—the same in kind but somewhat more extensive. But it can also levy taxes for public purposes, as has before been said. It elects an assessor, a city attorney, a street commissioner, and a city surveyor. The council appoints the chief officers of the fire companies.

The recorder, treasurer, assessor, justices of the peace, and police constables, have duties similar to those of the corresponding officers in a village or a town.

Some Pertinent Questions.

If two persons should claim the same seat in the city council, who would decide the matter?

State three ways in which a proposed ordinance may become

* This is called *vetoing* it, from a Latin word *veto*, meaning *I forbid.*

an ordinance. Two ways in which it may fail. How can persons living in a city find out what ordinances the council passes? How far are the ordinances of any city operative?

Compare the government of a village with that of a city.

Are school affairs managed by the city council? How is it in a village? In a town.

If a new school-house is needed in a city, and there is not money enough in the treasury to build it, what can be done?

If you live in a city having a special charter, borrow a copy of it from a lawyer or from the city recorder, and find out what powers and privileges are granted to the corporation not specified in the general law; what limitations are imposed; and, if a municipal court is provided for, what its jurisdiction is in civil actions and in criminal prosecutions.

Name the principal officers in your city. The aldermen from your ward.

What are some of the dangers of city government? Consult Macy's Our Government, pp. 51–53, and Nordhoff's Politics for Young Americans.

Questions for Debate.

Resolved, That for a community of 5000 inhabitants or less a village organization is better than a city organization.

CHAPTER VI.

The County.

Need of.—A county organization is needed for the following reasons:

1. *To establish the lower organizations.* As we have seen, the organizations within the county are established by county officers. But, it may properly be asked, why not have them organized by the state directly? There are at least three good reasons: In the first place, it would be too burdensome to the state; that is, the state would act through the legislature, and to organize all the individual school districts, towns, villages, and cities, would take up too

much of the time of the legislature. In the second place, the organizing could only be done at certain times, namely during the session of the legislature, and in the meantime communities would have to wait. In the third place, the records of incorporation would be inaccessible in case they were needed for reference.

*2. *To serve as a medium between the state and the lower organizations.* The state uses the town, village, and city to value property for purposes of taxation and as election districts. But it gets its taxes and its election returns through the county. Here again may arise the question, why not send the state taxes directly to the capital and make election returns directly also? At least two good reasons appear: It would increase the work and therefore the number of officials at the capital, and if a mistake should be made it could not be so easily discovered and corrected.

3. *To carry on public works beyond the power of the towns individually.* A desired local improvement may be beyond the power of a town either because it is outside of the jurisdiction of the town or because of its expense. Thus, a road may be needed between two centers of population, villages or cities, which would run through several towns, while the jurisdiction of the towns individually extends only to their own borders. Or a bridge over a wide stream may be needed, which would be too expensive for the town in which it is located. The road and the bridge would better be provided by the county.* And the poor can generally be better cared for by the county than by the individual towns, for the county can erect and maintain a poor-house.

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*Sometimes state aid is secured. Do you think it wise, as a rule, for the state to grant such aid?

4. *To secure certain local officers not needed in every town;* for instance, a register of deeds, the coroner, the judge of probate, the superintendent of schools, (in most states), and the surveyor.

5. *To serve as a territorial basis for the apportionment of members of the legislature.* This is, perhaps, merely an incidental gain. But its convenience in defining legislative districts is obvious.

6. *To make justice cheap and accessible.* It is well in many ways, as we have seen, to have in every town, village, and city, courts of limited jurisdiction. But to *establish justice* in any generous or satisfying sense there should be within the reach of every citizen a court competent to try *any* difference between individuals regardless of the amount in controversy, and able to punish any crime against the laws of the state. To bring such a court within the reach of every one was the original reason for the establishment of the county, and remains today the greatest advantage derived from its existence.

Establishment.—Counties are established by the state legislature. In thinly settled parts of a state the counties are much larger than in the populous parts. A county should be large enough to make its administration economical, and yet small enough to bring its seat of justice within easy reach of every one within its boundaries. In the ideal county a person living in any part thereof can go to the county seat by team, have several hours for business, and return home the same day.

County Board.—The administration of county affairs is in the hands of the county commissioners or supervisors. This board is usually constructed on one of two plans: Either it consists of three or five members,

the county being divided into commissioner districts; or else it is constituted of the chairmen or other member of each of the several town boards. The former plan prevails in Minnesota, Iowa, and other states; the latter in Wisconsin, Michigan, most of Illinois, and in other states.

The commissioners have charge of county roads and bridges, county buildings and other county property, and the care of the county poor. Through the commissioners the county exercises the usual corporate powers.

Recording Officer.—The recording officer of the county is called in some states the county auditor, and in others the county clerk. As we would expect, he is secretary of the board of commissioners and the custodian of county papers; and all orders upon the treasurer are issued by him.

In many states the auditor is also bookkeeper for the county, that is, he keeps an account of the money received and paid out by the county treasurer. In addition, he computes all the taxes for the county,* and makes the tax-lists, showing in books provided for the purpose just how much the tax is on each piece of real estate and on personal property. These books he turns over to the county treasurer to be used in collecting the taxes.

Treasurer.—The county treasurer is, in some states, one of the most important officers. He is the great financial agent, collecting all the taxes paid by the people for school, town, village, city, county and state purposes, except assessments for city sidewalks and street grading. Great care must, therefore, be taken

* In some states, among them Wisconsin, this computation is performed by the several town clerks, and the moneys are collected by the town treasurers.

to guard the public money. The precautions serve as a check upon weak or dishonest officials, while right-minded ones welcome them as keeping their good name above suspicion. As a type, the precautions taken in Minnesota are given, to-wit:

1. The selection of an honest man for the office, so far as possible, is a prime consideration.

2. The treasurer must give a bond for such amount as the county commissioners direct.

3. He shall pay out money only upon the order of proper authority.* This order signed by the payee is the treasurer's receipt or voucher.

4. He shall keep his books so as to show the amount received and paid on account of separate and distinct funds or appropriations, which he shall exhibit in separate accounts.

5. The books must be balanced at the close of each day.

6. When any money is paid to the county treasurer, excepting that paid on taxes charged on duplicate, the treasurer shall give, to the person paying the same, duplicate receipts therefor, one of which such persons shall forthwith deposit with the county auditor, in order that the county treasurer may be charged with the amount thereof.

7. The county auditor, the chairman of the board of county commissioners, and the clerk of the district court, acting as an auditing board, carefully examine at least three times a year the accounts, books and vouchers of the county treasurer, and count the money in the treasury.

* Moneys belonging to school district, town, village, or city, are paid on the warrant of the county auditor; county money, on the order of the county commissioners, signed by the chairman and attested by the county auditor; state money, on the draft of the state auditor in favor of the state treasurer.

8. The state examiner makes a similar examination at least once a year. No notice is given in either case.

9. As security against robbers, the money in the possession of the county treasurer must be deposited on or before the first of every month in one or more banks. The banks are designated by the auditing board, and must give bonds for twice the amount to be deposited.

Register of Deeds.—Without hope of reward no one would work. To encourage frugality, people must be reasonably secure in the possession of their savings. One of the things for which a person strives is a home. Therefore, great care is taken to render a person who has bought a home, or other landed property, secure in its possession. Among the means employed are these: 1. The purchaser is given a written title to the land. This is called a *deed.* 2. In order that any person may find out who owns the land, thus preventing a person reputed to own it from selling it, or the owner from selling to several persons, a *copy* of the deed is made by a competent and responsible public officer in a book which is kept for that purpose and which is open to public inspection. This is called *registering* the deed, and the officer is called the register of deeds.* The register may have assistants, if necessary, he being responsible for their work.

Judge of Probate.—But not only should a person enjoy the fruit of his labors while living, he should also be able to feel that at his death his property shall descend to his family or others whom he loves. Many persons before they die make a written statement, telling how they wish their property disposed of. This written statement is called a will or testament.

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* Incidentally this officer records other instruments, such as official bonds, official oaths, etc.

Some who are possessed of property die without making a will. They are said to die *intestate.* To see that the provisions of wills, if any be made, are complied with, and, in case no will is made, to make sure that the property comes into possession of those best entitled to it, is the important and well-nigh sacred duty of an officer called the judge of probate. If no one is named in the will to look after the education and property of minor heirs, the judge of probate may appoint a guardian. The appointee must give bonds for the faithful discharge of his duty.* Incidentally it is made the duty of the judge of probate to appoint guardians for any persons needing them, such as insane persons, spendthrifts, and the like. He seems to be the friend of the weak.

County Surveyor.—To survey all public improvements for the county, such as roads, lands for public buildings, &c., there is an officer called the county surveyor. He is required to preserve his "field notes" in county books furnished for the purpose. Individuals frequently call upon him to settle disputes about boundary lines between their estates.

Superintendent of Schools.—Not every one is competent to teach, and to protect the children as far as possible from having their time worse than wasted by incompetent would-be teachers, is the very responsible duty of the county superintendent of schools. From among those who present themselves as candidates he selects by a careful examination those whom he deems most competent, and gives to each a certificate of qualification. He visits the schools and counsels with the teachers regarding methods of instruction and management. It is his duty also to hold teacher's

* See chapter VII.

meetings. He reports annually to the state superintendent of public instruction such facts as the superintendent calls for.

County Attorney.—Like railroads and other corporations the county keeps a regularly employed attorney to act for it in all suits at law. This officer is called the county attorney. He represents the state in all criminal prosecutions, and is for this reason sometimes called the state's attorney.

Sheriff.—An ancient officer of the county is the sheriff. He has three principal lines of duty: 1. To preserve the peace within the county. 2. To attend court. 3. To serve processes. He pursues criminals and commits them to jail. He has charge of the county jail and is responsible for the custody of the prisoners confined in it. He opens and closes each session of the district court, and during the term has charge of the witnesses, the juries, and the prisoners. It is his duty to carry into execution the sentence of the court. He serves writs and processes not only for the district court, but also for justices of the peace and court commissioners.

Coroner.—Another officer of the county, ancient almost as the sheriff, is the coroner. If the dead body of a human being is found under circumstances which warrant the suspicion that the deceased came to his death by violence, it is the coroner's duty to investigate the matter and ascertain if possible the cause of the death. He is aided by a jury summoned by him for the purpose.

At a time in early English history when the only county officers were the sheriff and the coroner, the coroner acted as sheriff when the latter was for any reason incapacitated. And the practice still continues.

Thus, if there is a vacancy in the office of sheriff, the coroner acts till a new sheriff is chosen. And the coroner is the only officer who can serve process upon the sheriff or who can arrest him.

Clerk of the Court.—The district court* is a "court of record." That is, it has a seal and a special officer to record its proceedings. He is called the clerk of the court. He of course also files and preserves the papers in each case. He has also certain incidental duties.

Court Commissioner.—Court is not always in session, and there are certain powers possessed by a judge "in chambers," that is, which the judge may exercise out of court. For instance, he may grant a writ of attachment or of *habeas corpus*. Where a judicial district comprises several counties, as is usually the case, a provision is made in some states for an officer in each county authorized to perform such duties in the absence of the judge. He is called in Minnesota the court commissioner.

Election and Term.—The county officers are elected by the people of the county. The term is usually two years.

Removals and Vacancies.—Provision is made for the removal of any county officer for non-feasance or malfeasance in office. The power to remove is generally vested in the governor. The accused must be given an opportunity to be "heard in his own defense." Vacancies are generally filled by the county commissioners. They appoint some one, not one of themselves, to serve until the next election.

Qualifying.—Each officer before assuming the duties of his office takes the official oath. All of the officers

*See next chapter.

except the commissioners and the superintendent of schools are required to give bonds. Copies of these bonds are preserved by the register of deeds, and the originals are forwarded to the secretary of state.

Compensation.—Compensation is usually by salary or by fees. The matter is in the hands of the county commissioners, except so far as concerns their own compensation, which is fixed by law. This is usually a *per diem.*

Eligibility.—Any voter who has resided in the county a certain time (usually about thirty days) is eligible to any county office, except that of attorney or court commissioner. The former must be a person admitted to practice in all the courts of the state. The latter must be a man "learned in the law."

In some cases a person may hold two offices at the same time; thus, a person may be court commissioner and judge of probate. But no person can hold two offices one of which is meant to be a check upon the other. For instance, no one could be auditor and treasurer at the same time. In some states there is a bar against holding certain offices for two terms in succession.

Some Pertinent Questions.

What is the difference between a town road and a county road? Point out one of each kind. If you wanted a change in a county road, to whom would you apply?

Get a warranty deed and fill it out for a supposed sale. Compare with it a mortgage deed. A quitclaim deed. Compare a mortgage deed with a chattel mortgage. Account for the differences. If A buys a farm from B and does not file his deed, who owns the farm?

If a man possessing some property should get into habits of gambling and debauchery, squandering his money and not providing for his family, what could be done? On what grounds could this interference by a public officer be justified?

Who would be keeper of the jail if the sheriff should be a prisoner? Why not one of the deputy sheriffs?

Study out carefully the derivation of the words auditor, sheriff, coroner, probate, commissioner, supervisor, superintendent.

The county attorney is usually paid a salary while the register of deeds usually gets the fees of his office. What seems to govern in the matter? Name the salaried officers in this county. The officers who are paid fees.

To whom are school taxes paid? Town taxes? County taxes? State taxes? How much of the money paid at this time goes to the United States?

How does the tax collector know how much to take from each person? From whom does he get this book?

The amount of a person's tax depends upon the *value* of his property and the *rate* of tax. How is the former fact ascertained? To whom, then, does the assessor report when he has concluded his labors?

The rate of tax depends upon the amount to be raised and the value of the property on which it is to be assessed. Who determines how much money shall be raised in a district for school purposes during any year? When is this determined? Who records the proceedings of the meeting? To whom must he report the amount of tax voted? Who determines how much money is to be raised in the town for bridges, etc.? When? Who records the proceedings of the meeting? To whom must he report the amount of tax voted? Who vote the taxes in a village? When? Who reports to the computing officer? Who vote the taxes in a city? Why not the people? When? How reported to the computing officer? Who determines how much money is to be raised for county purposes? When? Who is secretary of the meeting? To whom does he report? Who determines how much money shall be raised for state purposes? How does the proper officer become acquainted with the facts necessary to the raising of the money?

State the gist of the matter brought out by the questions in the last four paragraphs.

How does the school district treasurer get the school district money?

Trace a dollar from the time it leaves a farmer's hand as taxes till it reaches the teacher as salary.

If you had a bill against the county how would you get your pay? What could you do if pay were refused? Make out in due form a bill against your county.

CHAPTER VII.

Establishing Justice in the County.

Classes of Cases.—There are three general classes of judicial business carried on in the county: probate business, civil actions, and criminal prosecutions.

PROBATE COURTS.

Jurisdiction.—The principal business and characteristic work of probate courts is the settlement of the estates of deceased persons. Jurisdiction extends in most states over both personal property and real estate. Incidentally probate courts appoint guardians for minors and others subject to guardianship, and control the conduct and settle the accounts of such appointees.

In many states jurisdiction wholly extraneous to the characteristic work of these courts is imposed upon them, or the probate business is associated with other jurisdiction in the same court. Thus, in Minnesota the judge of probate is petitioned in the organization of cities, as we have seen. In Wisconsin, the county court, which has charge of the probate business, has civil jurisdiction also. In Illinois, the county court in addition to the probate business has jurisdiction "in proceedings for the collection of taxes and assessments." And in Kansas, the probate court has jurisdiction in cases of *habeas corpus*.

Procedure in case a Will has been made.—The proceedings of a probate court have in view two chief objects, namely, to pay the debts of the deceased and to distribute the remainder of his property among those entitled to it. In case the deceased has left a will, the proceedings are as follows:

1. *Petition for probate.* Within a short time, usually thirty days, after the death of the testator, the executor or other custodian of the will presents it to the probate court with a petition that it be admitted to probate.

2. *Citation to persons interested.* Acting on the petition, the probate judge publishes in a newspaper a notice to all persons interested in the estate that at a specified time, action will be taken on the petition. To afford all who are interested an opportunity to be present at the "hearing," the notice must be published for a prescribed time, and in some states each of the heirs must, if possible, be personally notified.

3. *Hearing the proofs.* At the time specified in the notice, unless postponement be granted for cause, the proofs of the validity of the will are presented. It must be shown that the testator is dead, that the instrument was executed by him voluntarily, in the manner prescribed by statute, and while he was of "sound mind and disposing memory." Usually it will be sufficient for the two witnesses to the instrument to appear and testify to the material facts. If any one interested in the distribution of the property thinks that this will should not be accepted as the "last will and testament" of the deceased, he should now enter objections. In case of a contest, the proceedings are about the same as those in a justice or circuit court. But there is no jury in the probate court, nor is there any plea except the petition.

4. *Admission to probate.* If the proofs are satisfactory to the court, the will is "admitted to probate," that is, it is accepted as true and valid. Its validity is established by a decree of the court, and a certificate

of the fact is attached to the will. A copy of the will is made in a book kept for the purpose. The original and all the papers in the case are filed and preserved by the judge of probate.

5. *Issuance of letters testamentary.* The genuineness of the will being established, it is now in order to carry out its provisions. Usually the testator designates in his will the person or persons whom he wishes to act as his representative in the settlement of the estate. Such a person is called an "executor." If no person is so named, the court appoints an "administrator with the will annexed." In either case the person derives his authority from the court. Unless excused in the will, the executor or administrator is required to give bonds proportioned to the amount of the personal property in the estate, the amount of bond being specified by the court. The executor is then furnished with a copy of the will and with "letters testamentary." The authority granted by the letters may be seen by reference to the form in the appendix.

6. *Notice to creditors.* It is a principle of law that all just debts shall be paid out of one's property before any further disposition thereof can take effect. In order that all persons having claims against the estate of the deceased may have an opportunity to present their accounts, a time for such presentation is designated by the court, and due notice thereof is given, usually by publication in a newspaper.

7. *Inventory of the estate.* In the meantime, the executor makes an inventory of the property, and appraisers appointed for the purpose "put a value" thereon, the several items of the inventory being valued separately.

8. *Auditing claims.* At the time appointed in the notice, the court passes upon the claims of creditors. Since unscrupulous persons are at such times tempted to present fraudulent claims, the judge exercises great care in examining the accounts. To facilitate matters it is required that accounts be itemized, and that they be verified by oath.

Debts are paid out of the personal property, if there be enough. If not, the court authorizes the executor to sell real estate to pay the balance.

9. *Settlement of estate and division of property.* The executor having collected debts due the estate and settled all claims against it, makes his final statement to the court, and the remaining property is distributed among the heirs and legatees. To continue and perfect the chain of title, the division of the real estate is recorded in the office of the register of deeds.

If there are minor heirs, the court appoints guardians for them.

Procedure in case no Will is made.—If there is no will, the four steps which have in view the establishment of the validity of the will, are unnecessary. The initial step in this case is the appointment of an administrator to do the work which under a will is done by the executor. In order that an administrator acceptable to the heirs may be appointed, the following steps are taken:

1. Some one interested in the estate petitions for the appointment of a certain person as administrator.

2. Notice of hearing is given by publication, citing those interested in the estate to appear at a certain day if they desire to enter any objection to the appointment.

3. If at the time specified for the hearing no objection is made, the person petitioned for is appointed administrator, and "letters of administration" are issued to him.

Then beginning with the sixth the proceedings are substantially the same as in case of a will, except that the basis of distribution in the ninth is the *law* instead of the *will*.

"As befits an authority which thus pervades the sanctity of a household, crosses the threshold and exposes to public view the chamber of mourning, probate jurisdiction in the United States is exercised with great simplicity of form as well as decorum.*

Some Pertinent Questions.

What is a will?† Why must it be in writing? Must it be in the handwriting of the testator? Why are the witnesses essential? Is the form of a will essential? Is it necessary that the witnesses know the contents of the will?

What is the difference between an heir and a legatee? May either be witness to the will? Why? If the witnesses die before the testator, how can the will be proved?

What is a codicil? If there be two wills of different dates, which will stand? What difference does it make whether a person having property makes a will or not?

Group the proceedings in case of a will into three groups.

A minor may have two guardians, one of its person and the other of its property? Why? What is to hinder a guardian from abusing his trust?

DISTRICT, CIRCUIT OR SUPERIOR COURTS.

Jurisdiction.—This court has original jurisdiction in all civil and criminal cases within the district which do not come within the jurisdiction of the justice courts. It has appellate jurisdiction from probate and justice courts as provided by law.

*Schouler's Executors and Administrators.
†See Dole's Talks about Law.

Procedure.—The proceedings are substantially the same as in a justice court except that in criminal cases they are based upon an indictment by the grand jury, and after the arguments the judge "charges" the jury.

Pleadings.—The pleadings in the district court are somewhat more elaborate than in a justice court, and a few words in regard to them further than what has already been given may not be out of place here.

The defendant in making his plea may raise a question as to the jurisdiction of the court, or he may ask that the case be thrown out of court on account of some irregularity of the writ upon which it is based. Since these pleas, if successful, simply delay the trial, because a new suit may afterwards be brought, they are called *dilatory pleas.*

But he may deny the plaintiff's ground of action by denying the allegations of the plaintiff and challenging him to trial. This plea is called the general issue. He may admit the plaintiff's allegations but plead other facts "to avoid their effect." This is called the plea of confession and avoidance. These pleas are on the merits of the case, and are called *pleas in bar.* There are other pleas of this kind.

"Pleas in bar, except the general issue, may give rise to counter pleas" introduced by the parties alternately.

But the issue may be one of law instead of fact, and the defendant may enter a *demurrer*, claiming that the matters alleged are not sufficient in law to sustain the action.

Evidence.—Some of the fundamental principles or rules which govern the taking of evidence and the weighing of testimony may properly appear here.

These rules are designed to exclude all irrelevant matter and to secure the best proof that can be had.

1. *Evidence must go to prove the material allegations of the pleadings.* It must be confined to the question at issue. It is to be observed that the evidence must not only go to prove the matter alleged, but it must be the *material* not the superfluous matter. What is material and what superfluous will depend upon the case. Thus if it is alleged that a suit of clothes was obtained by the defendant at a certain time, his obtaining the clothes is the material fact and the time may be superfluous or immaterial. But if a note is in controversy its date is material as establishing its identity.

2. *Witnesses must be competent.* That is, in general, they must be able to understand the nature and solemnity of an oath. This will usually exclude children below a certain age, insane persons and persons drunk at the time of offering testimony.

3. *Witnesses must testify of their own knowledge,* Usually they are barred from telling what they simply believe to be the fact or what they have learned from hearsay.

4. "*The evidence must be the best of which the case is susceptible.*" Thus, in case of a written instrument the best evidence is the instrument itself; the next best, a copy of it; the next, oral statement of its contents. And a copy will not be accepted if the original can be produced.

5. *The burden of proof lies on the affirmative.* In civil cases the party affirming is usually the plaintiff. In criminal cases it is the state. Harmonizing with this principle is the constitutional provision that in criminal cases the accused shall not be required to give evidence against himself.

These are the principal rules of evidence, but they have many applications. Learned volumes have been written elaborating them.

Grand Jury.—A grand jury may be defined as a body of men returned at stated periods from the citizens of the county, before a court of competent jurisdiction, chosen by lot, and sworn to inquire of public offenses committed or triable in the county.

The common law number of grand jurors was twenty-three. By statute many of the states have fixed upon a smaller number, Oregon having only seven. A common number is fifteen. Some states have no grand jury. In some others the grand jury is summoned only when requested by the court.

The United States constitution and most of the State constitutions declare that no person shall be held to answer for a criminal offense, except a minor one, "unless on the presentment or indictment of a grand jury." This is to save people from the vexation and expense of arrest and trial unless there is reasonable presumption of their guilt. On the other hand, a grand jury should aid in bringing to justice persons who indulge in practices subversive of public peace, but which individuals are disinclined to prosecute, such as gambling. Incidentally the grand jury examines into the condition of the county jail and poor-house.

The mode of selecting grand jurors is in general the same in all the states. The steps are three: first, the careful preparation of a list of persons in the county qualified to serve; second, the selection, by lot, from this list of the number of persons needed; third, the summoning of the persons so chosen. The number of persons in the first list is from two to three times the number of jurors. The preparation of the list is in

some states entrusted to the county board; in others, to jury commissioners; in others, to the local boards. The names are reported to the clerk of the court, who in the presence of witnesses, makes the selection by lot. The summoning is done by the sheriff.

On the first day of the term, the court appoints one of the jurors foreman. The jury is then sworn, and, after being charged by the court, retires to a private room and proceeds to the performance of its duty.

The deliberations of the grand jury are conducted in secret. It may, however, summon and examine witnesses,* and may have the advice of the court or of the county attorney.

The fact that a crime has been committed within the county may be brought to the notice of the grand jury by any member thereof or by any other person. If upon examination there seems to be reason for believing that it was committed by the person accused, the county attorney is called upon to frame a formal accusation against him, called an *indictment*, which is endorsed with the words "a true bill," and sent to the court. Upon the indictment the person accused is arrested and tried. If the evidence against the accused is insufficient to warrant indictment, but yet his innocence is questionable, the grand jury may bring a *presentment* against him. This is an informal statement in writing addressed to the court setting forth the offense and stating that there is a reasonable probability that a certain person, named, has committed it. A person arrested on a presentment is examined before a justice of the peace or other magistrate, as if arrested on a complaint. Neither an indictment nor a presentment can issue except upon

*Witnesses for the accused are not usually examined by the grand jury.

concurrence of the number of grand jurors specified by statute. Under the common law the jury numbers twenty-three and the concurrence of twelve is necessary.

The grand jury is bound to investigate the charge against any one held by a justice "to await the action of the grand jury;" also any charge brought by a member of the grand jury. And conversely it is the sworn duty of each member to report any crime known by him to have been committed within the county. Any outsider may file information or bring charges, but the grand jury may use its own judgment as to the necessity of investigating them.

Petit Jury.—A petit jury is a body of twelve men impaneled and sworn in a district court to try and determine by a true and unanimous verdict, any question or issue of fact, in any civil or criminal action or proceeding, according to law and the evidence as given them in court.

The mode of selecting petit jurors is in general the same as that pursued in selecting grand jurors. The "list of persons qualified to serve" is, however, usually larger. The "selection by lot" is made thus: slips of paper, each containing one of the names, are folded and deposited in a box. The box is shaken, and the prescribed number of slips is drawn. The persons whose names thus appear are summoned as jurors.

When an action is called for trial by jury, the clerk draws from the jury box the ballots containing the names of the jurors, "until the jury is completed or the ballots exhausted." If necessary, the sheriff under direction of the court summons bystanders or others in the county to complete the jury. Such persons are called *talesmen.*

To secure an impartial jury, each party may object to or "challenge," a number of the jurors. The challenge

may be "peremptory" or "for cause." The peremptory challenge, as its name implies, is one in which no reason need be assigned. The number of such challenges must, of course, be limited. In civil suits it is usually limited to three by each party. In criminal cases, the state has usually two peremptory challenges and the defendant five. If the offense is punishable with death or state prison for life, the state has seven peremptory challenges and the defendant twenty.

Challenges for cause may be either general or particular. A general challenge of a proposed juror may be made on the basis of his incompetency or unworthiness to act in such capacity in *any* action. A particular challenge may be based on some bias in this particular case which would unfit the proposed juror for rendering an impartial verdict.

Habeas Corpus.—Not connected directly with trials but related to the district court is the writ of *habeas corpus*. This is the most famous writ in law, and has been styled "the chief bulwark of liberty." It was designed originally to secure a person from being detained in prison without due process of law, and it served as a mighty check upon arbitrary power. Its operation has been extended so as to include any detention against the will of the person detained. The writ, as will be seen by reference to the appendix of forms, commands the person holding another in custody to bring him before the judge and show cause for the detention. If the judge finds that the prisoner is detained for cause he remands him to custody; if not he orders his discharge.

Concluding Remarks.—This discussion might easily be continued. Volumes have been written on the administration of justice. But perhaps enough has been given to show that great care is taken to protect the

interests of the innocent and to do equal and exact justice to all. In view of flippant remarks sometimes made regarding courts of justice, it is pertinent and proper to go at least so far into detail. The study of Civil Government will have been pursued to little purpose if respect for law be not one of its fruits.

Some Pertinent Questions

How many judicial districts in this state?* How many counties in the largest? In the smallest? How many have more than one judge? Why not let each county constitute a judicial district?

If some one owed you $40 and refused to pay, in what court could you sue? If he owed you $250? If the suit involved $1,000,000?

What is the relation of the plea to the action? Can anything be proved which is not alleged in the plea? Show the purpose of each rule of pleading. Of each rule of evidence.

What are the differences between a grand jury and a petit jury? Why is each so named?

If a person accused of crime is examined and held by a justice of the peace, as stated in a previous chapter, must he be indicted by a grand jury before he can be tried? Why? May a person's acts be inquired into by the grand jury without his knowing anything about it? May grand jurors reveal the proceedings of the jury? Why?

Why is there such a thing as a peremptory challenge of a juror? Why so many given to a person accused of crime?

Are lawyers officers of the court? What oath does each take on admission to the bar?

Questions for Debate.

Resolved, That trial by jury has oulived its usefulness.

Resolved, That capital punishment is not justifiable.

References.—Dole's Talks about Law; Lieber's Civil Liberty and Self Government, 234–6; The Century, November 1882; Atlantic Monthly, July 1881; North American Review, March 1882 and July 1884.

*Consult Legislative Manual.

PAPERS.

I. Required of all students.

1. Prepare with care "tabular views" of the town, village, city and county, as follows:

ORGANIZATION.							
Offices.	Officers.	Duties.	How elected.	Term.	Salary.	Removal.	Vacancy.
	Underscore names of officers whom you know personally.	Underscore duties which you have seen performed.					

2. Make a comparative tabular view as follows:

Division.	Why needed.	How organized.	Managing body.	Recording officer.	Custodian of money.	Judicial Officers.	Peace Officers.	Other Officers.
School Dist.								
Town, - - -								
Village, - -								
City, - - -								
County, - -								

II. Optional. Choose any one.

3. **Paupers: Modes of caring for them.**
   References: Reports of State Board of Corrections and Charities. Macy's Our Government, pp. 34 to 39.
4. Taxation: Necessity of. Modes of. Property that should not be taxed.
   References: Appendix. Macy's Our Government, pp. 39 to 49.
5. Education: Support given to it by the district, the county, the state, and the general government.
   References: Legislative Manual and Report of State Superintendent.
6. What I saw on my vist to the county building.
7. The trial that I witnessed.

CHAPTER VIII.

HISTORICAL.

Old England.—Not only our language but also very many of our political institutions we have inherited from England. But the country now called by that name is not the real *old* England. The fatherland of the English race is the isthmus in the northern part of Germany which we now call Schleswig. Here dwelt the old Angles or English. To the north of them in Jutland was the tribe called the Jutes, and to the south of them, in what we now call Holstein and Friesland, dwelt the Saxons. "How close was the union of these tribes was shown by their use of a common name, while the choice of this name points out the tribe which at the moment when we first meet them, in the fifth century, must have been the most powerful in the confederacy."* Among themselves they bore in common the name of Englishmen.

Among the characteristics of those German ancestors of ours are the following: They were very independent; the free landholder was "the free-necked man." The ties of kinship were very strong. "Each kinsman was his kinsman's keeper, bound to protect him from wrong, to hinder him from wrong-doing, and to suffer with and pay for him if wrong were done."* They were very much attached to home. "Land with the German race seems everywhere to have been the accompaniment of full freedom. * * * The landless man ceased for all practical purposes to be free, though he was no man's slave."* Among themselves they were quite social. Though tillers of the soil they lived, not isolated, but grouped together in small villages. This may have been partly for mutual protection. They were lovers of law and order.

* Green's History of the English People.

The Township.*—The derivation of the word "township" shows us to whom we are indebted for the institution itself. The word is derived from the Anglo-Saxon *tun-scipe*. *Tun* meant hedge, ditch or defense; and *scipe*, which we have also in landscape, meant *what may be seen*. Around the village before mentioned was the *tun*, and beyond were the fields and meadows and woodlands, the whole forming the tun-scipe or township.

To administer justice and to take any other action for the common good, the freemen gathered in *folk-moot* around the moot hill or the sacred tree.

Though the proceedings of these assemblies differed in detail from those of our town meetings, both contain the great principle of local self government.

The County.*—Although with us the state is divided into counties and the counties into towns, the order of formation was originally the other way. The towns are the oldest institutions in our system. Later, from uniting forces in war came a union of action among adjoining towns during peace. Thus grew up what was called the Hundred.

When in the fifth century the English invaded Britain, many of the chieftains or military leaders rose to kingship over small areas. On the completion of the conquest these kings struggled among themselves for leadership, until finally England became united into one kingdom, and the little kingdoms were reduced to shires ruled by earls. With the growth of the king's power, that of the underkings or earls grew less. Then other shires were formed, and this institution became simply an administrative division. After the Norman conquest the French terms count and county came into use.

* See American Political Ideas, pp. 31-63.

The earnest student will find both pleasure and profit in looking up the origin and history of the trial by jury, the criminal warrant, the writ of habeas corpus, bail, common law, the general rules of parliamentary practice, etc.

Town and County in America.—In New England the most important division of the state is the town; in the South it is the county.* In other states the relative importance of the two organizations depends upon the influence to which the state was most strongly subjected.

The reason for the difference is found in the character and circumstances of the early colonists.

In New England, the church was the center of the community. The severity of the climate and the character of the soil made it impracticable to cultivate large farms. The colonists had come mainly from the towns of England. These considerations and the presence of fierce and unfriendly Indians caused the settlers to group themselves into compact settlements. Their self assertion prompted them, and their intelligence enabled them, to take active part in public affairs. Hence the importance of the town in New England.

In the South, the colonies were planted largely in the interests of the proprietaries. The leading spirits had been county gentlemen in England and they naturally favored the county system. The mass of the people were unaccustomed and indifferent to direct participation in the government. Again, the warm climate and fertile lands were favorable to large plantations and a dispersed population; so that the character of the people and the circumstances under which they lived were alike favorable to the establishment of the county system pure and simple.

*An excellent discussion of this may be found in "Samuel Adams, the Man of the Town Meeting," John s Hopkins University Studies in History, Volume II, Number 4.

To quote the pithy statement of Professor Macy, "The southern county was a modified English shire, with the towns left out. Local government in New England was made up of English towns with the shire left out."

Subsequently counties were formed in New England for judicial purposes, but the towns retained the greater number of their functions; and in the south, the counties were afterwards subdivided into election and police districts, but the administrative power remained with the county.

The Middle States divided the local power between the town and the county.

Migration is chiefly along the parallels of latitude. And people from habit and instinct organize new governments largely on the plans to which they are accustomed. Hence we are not surprised to find that in the states formed south of the line of the Ohio, the county is the principal division; while in the northwestern states the town is the important factor. Though in the Northwest the county is more important than in New England, the influence of the towns in county affairs is generally maintained by the selection of members of the county board from the several towns.

Illinois is a good example of the truth of the generalizations at the beginning of the preceding paragraph. The state is very long and reaches far to the south. The southern part of the state was settled first, and almost pure county government prevailed. By and by the northern part began to settle, and it grew in population faster than the southern part. The town was introduced, and now prevails in all but a few counties.

Can you see the relation of these facts to the generalization? Can you tell where the people of the two sections of the state came from.

PART II.

THE STATE.

CHAPTER IX

WHY WE HAVE STATES.

1. *Historical reason.* We have states now because we had such organizations at the time this government was established. The colonies, founded at different times, under different auspices, by people differing in religion, politics, and material interests, remained largely independent of each other during colonial times, and on separating from England became independent *states.*

2. *Geographical reason.* Different climatic and topographic conditions give rise to different industries, and therefore necessitate different regulations or laws.

3. *Theoretical reason.* The theory of our government is that of *decentralization of power.** That is, we think it best to keep power as near as possible to the people. If a certain work can be accomplished fairly by individual enterprise, we prefer that it be done so rather than through any governmental agency. If work can be done by the town just as well as by the county, we assign it to the town. And as between the state and the general government, we assign no duty to the latter which can be performed as well by the former.

4. *Practical reasons.* There are many practical reasons. Among them may be mentioned the following:

*There being a constant tendency to centralization, this thought should be emphasized. See Nordhoff's Politics for Young Americans. (71)

We need the state as a basis for the apportionment of members of congress. This is a federal republic, and representation in the national councils can be had only through statehood.

We need the state to establish a system of education, to control corporations, to put down riots when the local authorities cannot do so, to establish the smaller organizations, etc. These are some of the things referred to in paragraph three, which the state can do better than the general government.

There is in the state also a high court of justice to which cases may be appealed from the courts below.

How States are Created.

The "old thirteen" originated in revolution. They *declared* themselves "free and independent states," and maintained the declaration by force of arms. Each became a state "in the Union" by ratifying the constitution. Since then states have been admitted into the Union on terms prescribed by congress. The plan in general is as follows:

1. When the number of people in a territory equals or nearly equals the number required to secure a representative in congress, the inhabitants thereof may petition congress for an act authorizing the formation of a state government.

2. If the petition is granted, an "enabling act" is passed. This usually defines the territory to be comprised in the new state, provides for the calling of a constitutional convention, requires that the state government to be framed shall be republican in form, states the number of representatives in congress which the state shall have until the next census, and offers a number of propositions for acceptance or rejection by the convention.

Among these are proposals giving land for the support of common schools and of a university, and for the erection of public buildings; and offering a portion of the net proceeds of the sale of public lands within the state for internal improvements. These offers are conditioned upon non-interference on the part of the state with the holding and selling by the United States of the lands within the state owned by the general government, and their exemption from taxation. The enabling act for Minnesota is given in the appendix. It is in a large measure typical. Students in most of the states can find the enabling act for their state in the legislative manual thereof.

Michigan, Kansas and Oregon formed their constitutions without an enabling act.

3. The constitutional convention provided for in the enabling act, having ascertained that it is the wish of the people to form a state, frames a constitution and submits it to the people of the proposed state for adoption.

4. If adopted,* copies of the constitution are sent to the president and to each house of congress.

5. If the constitution framed is in accordance with our institutions, it is accepted and the state is admitted.†

Kentucky, West Virginia, Maine, California and Texas became states in the Union without having been territories. The first two were detached from Virginia, and the third from Massachusetts, and admitted at once as states. California and Texas had been independent states before admission.

As typical of the mode of restoring the rebel states to their old place in the Union, the act restoring Tennessee is given on page 358.

* Wisconsin rejected the constitution of 1846, and New York that of 1867.
† The acts of congress of 1866 and 1867, admitting Colorado, were both vetoed by president Andrew Johnson.

CHAPTER X.

State Constitutions.

Their purpose.—A constitution in the American sense of the term is a written instrument defining the powers of government and distributing those powers among the departments. It is the fundamental law, the voice of the people granting or withholding power. A primary purpose of the instrument is to give form and authority to the government; another is to protect individuals and minorities from the tyranny of the majority. Each of the states has a constitution.

Their origin.—In most of the countries of Europe, including England, what is called the constitution is not written. It consists largely of the maxims of experience, the principles sanctioned by custom. When a new political custom becomes prevalent it gradually becomes recognized as part of the constitution.

Written constitutions in this country probably arose from the fact that the charters granted to the colonies and securing to them privileges, were in writing. And these written charters themselves grew out of a practice prevalent in England of securing the rights of towns and cities by written charters wrung from the king. Some general charters of liberties, too, had been secured. Among these may be mentioned the charter granted by Henry I. in 1100; the Magna Charta, or great charter, wrung from King John in 1215; and the Petition of Right, the Habeas Corpus Act, and the Bill of Rights, secured in the seventeenth century.

Some of the charters granted to colonies were so liberal in their terms that they were adopted as constitutions when the colonies became states. The charter of Connecticut remained its constitution till 1818. And

even in 1842 it was with difficulty that the people of Rhode Island could be prevailed upon to give up the old charter for a new constitution.

Their Contents.—The state constitutions are very much alike in their general characteristics. After a preamble, setting forth the purpose of the instrument, they usually contain a bill of rights, intended to secure personal liberty and other personal rights. They then distribute the powers of government among three departments, and provide for the organization and general procedure of each. Then follow miscellaneous provisions, relating to franchise, education, amendments, etc.

Their usual defects.—We have flourished so wonderfully under our system of government that we naturally have a great reverence for our national and state constitutions. So far has this feeling gone that a large number of people seem to fancy that there is some magic in the very word constitution. As a consequence state constitutions are usually too long; they contain too many miscellaneous provisions. Most of these relate to transient or petty matters which, if made affairs for public action at all, should be left to legislation. Changes in the constitution weaken our respect for it. Rarely should anything go into that great charter which has not stood the test of time, unless it has the promise of endurance as a necessary safeguard of the rights and liberties of the people.

Bills of Rights.

These usually assert or guarantee the following:

Republican Principles.—That governments are instituted by the people and for their benefit; that all persons

are equal before the law; that no title of nobility shall be granted.

Freedom of Conscience.—That there shall be perfect religious freedom, not, however, covering immoral practices; that there shall be no established or state church; that no religious test shall be required for the performance of any public function.

Freedom of Speech.—That any one may freely think, and publish his opinions, on any subject, being responsible for the abuse of this right.

Freedom of Assembly.—That the people may peaceably assemble to discuss matters of public interest and to petition the government for redress of grievances. This, of course, does not permit meetings designed to arrange for the commission of crime.

Freedom of Person.—That there shall be no slavery; nor imprisonment for debt, except in cases of fraud; nor unwarranted searches or seizures of persons or property; that no general warrants shall be issued; that the writ of *habeas corpus* shall not be suspended, except in certain emergencies; that persons may freely move from place to place.

Security of Property.—That private property shall not be taken for public use without just compensation therefor, previously paid or secured; that to prevent feudal tenure of land, long leases of agricultural land shall not be made; in most states the longest permitted term being twenty-one years.

Right to bear Arms.—That the right of the people to keep and bear arms shall not be infringed.

Freedom from Military Tyranny.—That the military shall be in strict subordination to the civil power; that there shall be no standing army in time of peace; nor

shall any soldier in time of peace be quartered in private houses without the consent of the owner.

Forbidden Laws.—That no *ex post facto* law, no law impairing the obligation of contracts, nor any bill of attainder shall be passed; that there shall be no special laws in certain specified cases.

Rights of Accused Persons.—(a) *Before trial.* That no unwarranted searches or seizures shall be made; that, except in capital offenses, the accused shall, while awaiting trial, be bailable, that, except in minor cases, a person shall not be held to answer for a criminal offense unless on the presentment or indictment of a grand jury. (b) *On trial.* That the accused person shall have a speedy and public trial in the district where the crime was committed; that trial by jury shall remain inviolable; that the accused shall be informed of the nature of the charge against him; that he shall be confronted with the witnesses against him; that he may be heard in his own defense and shall have the benefit of counsel in his behalf, that he shall not be required to witness against himself; that he shall have compulsory process to compel the attendance of witnesses in his behalf; that he shall not be deprived of life, liberty or property without due process of law (c) *After trial.* That no cruel or unusual punishment shall be inflicted; that no one shall twice be placed in jeopardy for the same offense.

Rights not enumerated.—There is usually a final statement that the enumeration of the above rights shall not be construed to deny or impair others inherent in the people.

Comments on the Above.

The rights above enumerated are among those which to us in America to-day seem almost matters of course.

It seems strange that any one ever seriously questioned the fairness or the justice of the claims there set forth. But in enumerating them we are treading on sacred ground. Their establishment cost our ancestors hundreds of years of struggle against arbitrary power, in which they gave freely of their blood and treasure.

Many of these rights are guaranteed in the constitution of the United States, but only as against the general government. That they may not be invaded by the state government, the people have reserved them in the state constitutions.

Pertinent Questions.

In what sense are all men created equal? Is there anything in good blood? What was meant by the "divine right" of kings to rule?

Could a Mormon practice polygamy in this state, it being part of his religious creed? Why? Can an atheist give evidence in court?

What constitutes libel? Slander?

On what basis may a mob be dispersed? What cases of petition have you known?

What is a general warrant? A passport? Why may *habeas corpus* be suspended in time of war.

Give instances of private property taken for public use. What is meant by feudal tenure? How long a lease of agricultural lands may be given in this state? How about business property in a city?

May a person lawfully carry a revolver in his pocket? Why?

What is meant by the military being subordinate to the civil power? Which outranks, the secretary of war or the general of the army? Why should the statement be made about quartering soldiers, in view of the preceding statement?

What is meant by an *ex post facto* law? Why forbidden? May a law be passed legalizing an act which was performed as a matter of necessity but without authority?

What is to hinder an enemy of yours from having you arrested and cast into prison and kept there a long time? What is the purpose of bail? Why regarded as an important element of liberty? Why should a grand jury have to indict a person who has been examined and held for trial by a justice of the peace? Does a prisoner charged with murder or other high crime remain in handcuffs during his trial? Name the three or four most important guarantees to an accused person. Why are so many provisions made in his behalf?

If a ruler should wish to subvert the liberties of a people used to these guarantees, where would he begin?

What are some of the advantages possessed by a written constitution over an unwritten one? Of an unwritten over a written one? Is any part of our constitution unwritten?

CHAPTER XI.

Departments of Government.

Regulations and Laws.—When the school officers, acting for the people of the district, state formally what may and what may not be done by teachers and pupils, the formal expressions of governing will are called rules and regulations. Similar expressions by the town, village, city, or county authorities are called ordinances or by-laws. But when the state expresses its will through the regular channels, the formal expression is called a law.

The Three Departments of Government.—After a law is made it needs to be carried into effect. Incidentally questions will come up as to its meaning and application. Government, then, has three great functions or powers with regard to law.

In our government, and to a greater or less extent in all free countries, these powers are vested in three *distinct* sets of persons. If one person or group of persons could make the laws, interpret them, and enforce obedience to them as interpreted, the power of such person or persons would be unlimited, and unlimited power begets tyranny. One of the purposes of a constitution is to limit the power of the government within its proper sphere, and to prevent misuse of authority; and this organization of the government in three departments, each acting independently so far

as may be, and acting as a check upon the others, is one of the modes of limitation.

The law-making, the law-interpreting, and the law-enforcing departments are called respectively the legislative, the judicial, and the executive departments.

CHAPTER XII.

The Legislative Department.

Bicameral System.—The legislature of every state consists of two chambers or houses. The *reason* for this is that during colonial times most of the legislatures consisted of two houses, the governor's council and the representative assembly. Then on becoming states, each of the "old thirteen," except Pennsylvania, organized bicameral legislatures. And the new states, being largely settled by people from the older states, naturally followed their example. The structure of congress has also had much influence.

The *advantages* to be derived from having two houses are numerous. Perhaps the only one which it would be wise to mention here is that it tends to prevent hasty legislation, because under this arrangement a bill must be considered at least twice before passage.

Apportionment.—As the population of a state is changeful, the constitution does not usually specify the number of members to compose each house. This is determined, within certain limitations imposed in the constitution, by the legislature itself. A re-apportionment is usually made every five years, after a census by the state or general government. The number of senators usually ranges between thirty and fifty; that of representatives from seventy-five to one hundred and fifty.

Meeting.—The legislature meets biennially in most of the states. People are beginning to understand that they may suffer from an excess of legislation. Some of the English kings used to try to run the government without parliament, and frequent sessions of parliament were then demanded as a protection to popular rights. Hence our forefathers instinctively favored frequent sessions of the legislature. But such necessity no longer exists, and for many reasons the states have with a few exceptions changed from annual to biennial sessions.*

Election.—Senators and representatives are both elected by the people. In some cases the states are divided into senatorial and representative districts in such a way that each elects one senator and one representative, the senate districts being of course the larger. In other cases, the state is divided into senate districts only, and each senate district chooses one senator and an assigned number of representatives. The former plan prevails in Wisconsin, for instance, and the latter in Minnesota. The number of representatives chosen in a senatorial district varies from one to half a dozen, dependent upon population. Illinois has a peculiar, and it would seem an excellent, plan. The state is divided on the basis of population into fifty-one parts as nearly equal as possible. Each of these districts may elect one senator and three representatives. In voting for representatives, a person may if he chooses mass his three votes on one candidate, or give them to two or three. The purpose is to enable a party in the minority by massing their votes to secure some representation.

Term.—The length of term of legislators usually

* Extra sessions may be called by the governor.

depends upon the frequency of sessions. The general principle seems to be that representatives shall serve through one session and senators through two. How long, then, would you expect the respective terms to be in states having annual sessions? In states having biennial sessions? By reference to the comparative legislative table on page 293 confirm or reverse your judgment.

Vacancy.—In case of a vacancy in either house the usual rule is for the governor to order a new election in the district affected by the vacancy.

Individual House Powers.—Each house has certain powers conferred by the constitution having for their object the preservation of the purity and independence of the legislature. Among these are the following:

1. *Each house is the judge of the election, returns, and qualification of its own members.* Each person elected to either house receives from the canvassing board of the district through its clerk a certificate of election, which he presents when he goes to take his seat. Should two persons claim the same seat, the house to which admission is claimed determines between the contestants. The contest may be based, among other things, upon fraud in the election, a mistake in the returns, or alleged lack of legal qualification on the part of the person holding the certificate. Into any or all of these matters the house interested, *and it only*, may probe, and upon the question of admission it may pass final judgment.

2. *Each house makes its own rules of procedure.* These, usually called rules of parliamentary practice, you can find in the legislative manual. Upon their importance as related to civil liberty, consult Lieber's Civil Liberty and Self-Government.

The power to preserve order applies not only to members but to spectators also. Disorderly spectators may be removed by the sergeant-at-arms; on the order of the presiding officer such persons may be placed in confinement during the remainder of the daily session.

Unruly members are as a general thing simply called to order. For persistent disorder they may be reprimanded or fined.* But in extreme cases they may be expelled. To prevent a partizan majority from trumping up charges and expelling members of the opposite party, it is a common constitutional provision that the concurrence of two-thirds of all the members elected shall be necessary for expulsion.

3. *Each house choses its own officers.* Each house has a presiding officer; several secretaries or clerks, a sergeant-at-arms; a postmaster and a chaplain. The sergeant-at-arms usually has a number of assistants appointed by himself, and there are a number of pages appointed by the presiding officer. These, however, hardly count as officers. The only exception to the rule enunciated is in those states having a lieutenant governor, who is *ex officio* president of the senate. Even in that case, the senate elects in case of a vacancy, the person so elected being chosen from among their own number and receiving the title of president *pro tempore.*

Quorum.—It would hardly be possible for all members to be present every day, therefore a number less than the whole should have authority to act. But this number should not be very small. The several constitutions fix the quorum for each house, usually at a majority of the members elected to it. But a smaller

* See Among the Lawmakers, pp. 230-3.

number has power of adjournment from day to day, so that the organization may not be lost; and it may compel the attendance of absent members, by sending the sergeant-at-arms after them.

Publicity.—On the theory that legislators are servants of the people, we would naturally expect the proceedings to be made public. And so they are. Publicity is secured in the following ways:

1. In accordance with the constitutional provision, each house keeps a journal of its proceedings which it publishes from time to time, usually every day.

2. Spectators are admitted to witness the daily sessions.

3. Newspaper reporters are admitted, and are furnished facilities for making full and accurate reports.

Privileges of Members.—In order that their constituents may not, for frivolous or sinister reasons, be deprived of their services in the legislature, the members of each house are *privileged from arrest* "during the session of their respective houses, and in going to and returning from the same." Nor can civil suit be brought against them during that time. But they may be arrested for treason, (defined in the constitution), felony or breach of the peace, because if guilty they are unworthy of a seat in the legislature.

And in order that there may be the utmost *freedom of speech* in the legislature, that any member who knows of wrong being done may feel perfectly free to say so, the constitution of each state provides that "for any speech or debate in either house, they shall not be questioned in any other place."

Compensation.—Members of the legislature receive for their services a salary, which is sometimes specified

in the constitution, but which is usually fixed by law. In the latter case no increase voted can be in effect until a new legislative term begins. This proviso is, of course, designed to remove the temptation to increase the salary for selfish ends.

In some countries no salary is paid to legislators, the theory being that with the temptation of salary removed only persons of public spirit will accept election. Our argument is that unless some remuneration be given, many persons of public spirit and possessed of capacity for public service would be barred from accepting seats in the legislature. In other words, the state wants the services of her best citizens, and does not wish lack of wealth on the part of any competent person to stand in the way. On the other hand, that there may be no temptation to continue the sessions for the purpose of drawing the pay, the constitution provides, where a *per diem* salary is paid, that members shall not receive more than a certain sum for any regular session, or a certain other sum for any extra session.

Prohibitions on Members.—To secure for his legislative duties the undivided attention of each member, the constitution provides that "no senator or representative shall, during the time for which he is elected, hold any office under the United States or the State." In some states, as in Minnesota, the office of postmaster is excepted. And in order that legislators may be freed from the temptation to create offices for themselves or to increase the emoluments of any office for their own benefit, it provides that "no senator or representative shall hold any office under the state which has been created or the emoluments of which have been increased during the session of the legislature of

which he was a member, until one year after the expiration of his term of office in the legislature."

Eligibility.—To be eligible to the legislature a person must be a qualified voter of the state, and a resident thereof for, usually, one or two years; and shall have resided for some time, usually six months or a year, immediately preceding election, in the district from which he is chosen. This last provision is made to preclude people who have not been living in the district, and who therefore cannot know it or be interested particularly in its welfare, from representing it in the legislature.

Sole Powers.—The mode of making laws is discussed in another place.* In making laws the houses have concurrent jurisdiction—they both take part. But there are some parts which belong to each house separately, besides the election of officers before mentioned. The house of representatives has in all states the sole power of impeachment,† and in some states of originating bills for raising revenue. This latter power is given to it because being elected for a short term it is more directly under the control of the people than is the senate.

The power to impeach is vested in the representatives because for the reason stated, they seem more immediately in fact as well as in name to represent the people, who it will be remembered are always the complainant in criminal cases. And the senate has the sole power of trying impeachments.‡ The length of term frees the members from the fear of immediate punishment in case of an unpopular verdict. And if

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* See "How Laws Are Made," page 344.
† For mode of proceeding see page 331.
‡ When the governor is being tried, the lieutenant governor cannot act as a member of the court.

they are right time will show it. Historically, this division of power in cases of impeachment is derived from the constitution of the United States, which has derived it from the practice in England.

The senate has also the sole power of confirming or rejecting the appointments of the governor.

Forbidden Laws.—In addition to the laws forbidden in that part of the constitution called the bill of rights, the legislature is usually forbidden to pass laws authorizing any lottery; or granting divorces; or giving state aid to private corporations; or involving the state in debt, except in case of war or other emergency.

Pertinent Questions.

Define constitution. What is a law? What is meant by common law? Statute law? Equity?

By reference to the comparative legislative table in the appendix, tell the most common name applied to the legislative body; any peculiar names; the names most commonly applied to the respective houses; the usual qualifications of members; the frequency of regular sessions, and the month of meeting most usual. Why is this time of year so uniformly chosen? What relation do you see between the frequency of sessions and the term of members? What is the relation between the terms of the respective houses? How does the number of senators compare with the number in the lower house? What state has the largest house? The smallest? Why is the term *senate* so common? Look up the derivation of the word. In what section of the country are the terms the shortest? Can you account for this? Which states require the highest qualifications in members?

Find out whether in your state there are any requirements not given in the tabulation. By reference to the legislative manual or other source of information find out any other facts of interest, such as the names of the speaker and other legislative officers; the number of your senatorial district, and the name of your senator; of your representative district, and the name of your representative; what committees are appointed in each house, and on which your local representatives are, and how they came to be selected for these particular committees; how vacancies are filled in the legislature; any contested elections that have occurred in your state and the basis of the contest; some of the important rules of parliamentary practice;

the salary paid members in your state; any cases of impeachment, the charge, and the outcome; other forbidden laws.

If two persons claim the same seat in the senate, who will decide between them? In the lower house? What are the returns, and where are they kept? What appeal from decision is there? If your legislature is now in session, write to your representatives asking them to send you regular reports of the proceedings. Don't expect to get such reports for the whole session, however; that would be asking too much. From the newspapers, report on Monday the principal proceedings of the previous week. Have you ever seen a legislature in session? What is to keep a member of the legislature from slandering people?

State five powers which can be exercised only by the senate. Five, in some states four, which can be exercised only by the lower house.

Are you elegible to the legislature? If not, what legal qualifications do you lack? Could a member of the legislature be elected goveror or United States senator?

At the last election did you preserve any of the tickets? Could you secure any of the ballots that were actually used in voting? Why?

CHAPTER XIII.

The Executive Department.

Officers.—The chief executive office in every state is that of governor. There is in each a secretary of state and a state treasurer. Most states have also a lieutenant governor, a state auditor or comptroller, an attorney general, and a state superintendent of public instruction. In nearly every case these offices are created by the state constitution.

Eligibility.—The qualifications required in the governor and lieutenant governor are age, citizenship of the United States, and residence within the State. The age qualification is required because the responsibilities are so great as to demand the maturity of

judgment that comes only with years. The requirement of citizenship and that of residence are so obviously proper as to need no comment.

For the other offices the qualifications required in most states are simply those required in a voter.*

Election.—In every state the governor is elected by the people, and in most states the other officers are also. In a few states, some of the officers are chosen by the legislature on joint ballot, or are appointed by the governor and confirmed by the senate.

Term.—The terms of office of the governors are given in the table. Unless otherwise stated, the term of the other officers in each state is the same as that of the governor thereof. For the highest efficiency the term of a state officer should not be very short, two years being better than one, and four years better than two. When the term is four years, it may be well to limit the number of terms for which an officer may be elected. In some cases this is done.

Removal.—These officers and the others provided by statute may be removed on impeachment by the house of representatives, and conviction by the senate.

Vacancy.—For the office of governor there is in every state a line of succession appointed in its constitution. By reference to the comparative table, it will be seen that there is considerable uniformity in the order of succession. In case of a vacancy in any of the other elective offices, the most usual plan is for the governor to make a temporary appointment until a new election can be held. If the vacancy is in an appointive office, the appointment is usually good until the end of the next session of the legislature.

* For which see page 300.

Salary.—The salary attached to each office is usually fixed by law, subject to the constitutional limitation that it shall not be increased nor diminished during the term of the incumbent. See page 294.

The Duties of the Officers.

Governor.—The great, the characteristic duty of the governor is to see that the laws are faithfully executed. Since this may sometimes require force, he is made by the constitution commander-in-chief of the military and naval forces of the state, and may call out these forces to execute the laws, suppress insurrection, or repel invasion.

He appoints, "by and with the advice and consent of the senate," notaries public, and such other officers as may be provided for by law. The advice of the senate is rarely if ever asked. But its consent must be obtained to make any such appointment valid.

As his duties continue through the year and have to do with the whole state, and as he may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject pertaining to the duties of their respective offices, he is supposed to know more than any other person about the situation and needs of the state as a whole; and it is, therefore, made his duty to communicate by message to each session of the legislature such information touching the affairs of the state as he deems expedient. The regular message is sent at the opening of the legislative session, and special messages at any time during the session as they seem to be needed. On extraordinary occasions he may convene the legislature in exta session.

To place another obstruction in the way of hasty legislation, the governor has a limited veto on all legislation.*

In the administration of justice mistakes are sometimes made. An innocent person may be found guilty, or a guilty person may be sentenced too severely, mitigating circumstances appearing after sentence is passed. For these and other reasons, there should be power somewhere to grant reprieves, commutations, and pardons. In most of the states this power is vested in the governor. It does not, for obvious reasons, extend to cases of impeachment. Many thoughtful people, including some governors and ex-governors, question very seriously the wisdom of this absolute assignment of the pardoning power. One suggestion by way of limitation is that no pardon issue except upon recommendation of the judge of the court in which conviction was wrought.

Lieutenant Governor.—As may be seen by reference to the comparative table, several of the states have no such officer. The office is designed simply to save confusion in case of a vacancy in the office of governor, in which case the lieutenant governor acts as governor during the vacancy. To give him something to do the lieutenant governor is *ex officio* president of the senate.† In most of the states, he has no voice in legislation, except a casting vote in case of a tie. But in some states, as indicated in the comparative table on page 294, he can debate in committee of the whole.

State Treasurer.—This officer has duties and responsibilities similar to those of a county treasurer.

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* See comments on the president's veto, page 150.

† In case of a vacancy in the office of lieutenant governor, the senate chooses one of its own number to act as president *pro tempore*.

Attorney General.—This officer has two chief duties. He represents the state in suits at law, and may be called upon to aid county attorneys in criminal prosecutions. When invited to do so he gives legal advice to the legislature and to the executive officers, on matters pertaining to their official duties.

Secretary of State and Auditor.—The county auditor, you remember, has three general lines of duty: 1. To act as official recorder and preserver of papers for the county board. 2. To be bookkeeper for the county, and in connection therewith to audit all claims against the county, and issue warrants on the county treasurer for their payment. 3. To apportion the taxes.

The corresponding duties in the state, except recording the acts of the legislature, which is done by legislative clerks, are in most states divided between two officers, the secretary of state and the state auditor or comptroller.

The secretary of state has, as his characteristic duty, the preservation or custody of state papers, acts of the legislature, etc. Incidentally he has other duties. In most states he is keeper of the great seal of the state, and authenticates state documents, commissions, etc.; he prepares the legislative manual; he sees that the halls are ready for the sessions of the legislature, calls the house to order at its first meeting, and presides until a speaker is chosen. He also indexes the laws and other state documents, and superintends their printing and distribution.*

The auditor or comptroller is bookkeper for the state, audits accounts against it, and draws warrants upon the state treasurer for their payment.† The

* In some states there is a superintendent of printing.
† No money can be paid out except on appropriation by the legislature.

state auditor, also, comparing the legislative appropriations with the assessed value of the property of the state, computes the rate of the state tax and reports it to county auditors.

In some states, Wisconsin, for instance, the duties of both offices are performed by the secretary of state.

In some states the auditor is *ex officio* land commissioner. In other states there is a separate officer to take charge of state lands.

Superintendent of Public Instruction.—This officer has general supervision and control of the educational interests of the state. He is often *ex officio* a member of the board of regents of the state university, of the board of directors of the state normal schools, and of the state high school board. He has the appointment and general management of state teachers' institutes. He meets and counsels with county and city superintendents. Thus an active, earnest, competent man may influence for good the schools of all grades throughout the state. He reports to the legislature at each session, through the governor, the condition and needs of the schools of the state. In this report he recommends such measures for the improvement of the educational system of the state as he deems advisable. In many states he apportions the state school money.

Assistants.—Usually the above officers have assistants appointed by themselves.

OTHER STATE OFFICERS.

The officers given above are the typical state officers. but every state has others. Of these the most important are shown in the comparative tabulation.

Some states provide the governor with a council.

This is in most cases simply an advisory, not an administrative or executive body.

Some Pertinent Questions.

What are the qualifications required in the governor of this state? The lieutenant governor? The other officers? The names of the state officers? The length of their terms? The officers not mentioned in the text, and their duties? Name the state officers whom you have seen.

Which states require the highest qualifications in the governor? The lowest? Which give the longest term? The shortest? The highest salary? The lowest? Which states limit the number of terms? Which have no lieutenant governor? In which states is a majority vote required? Does there seem to be any sectional law as to these things; that is, is there anything peculiar to New England, or to the south, or to the northwest? What seems to be the general law of succession to the governorship? What exceptions?

What is meant by saying that the governor *executes* the law? Is this saying strictly true? Is a sheriff an executive or a judicial officer? The constable? The mayor of a city? Can an executive officer be sued? A judicial officer?

How many senators and representatives would it take to pass a bill over the governor's veto? Have you ever known of its being done? If the governor should go to Washington on business of the state or on private business, who would act as governor? How long would he so act? Could he pardon convicts at that time? Have you ever read a message of the governor?

If the state superintendent of public instruction wants information on some point of school law, to whom should he appeal? How much would he have to pay for the advice? What force would the opinion have? Could he obtain a legal opinion as to a private matter on the same terms?

If you had a bill against the state, how would you get your pay? If payment were refused what could you do? (Do not try to answer off-hand. Ask a lawyer.)

How are the expenses of the state government met? The amount of state expenses last year? (See report of treasurer.)

What are the sources of the school fund of this state? Did you ever know of school lands being sold in your county? By whom, how, and on what terms?

Name your county superintendent of schools. The state superintendent. Is there a United States superintendent? Get the report of the state superintendent and find out what it contains. Ask your teacher to let you see the teachers' report to the county superintendent. How much state money did your district receive last year?

CHAPTER XIV.

Other State Officers.

Railroad Commissioners.—To prevent railroads from charging extortionate rates for passengers or freight; to see that reasonable facilities are provided, such as depots, side tracks to warehouses, cars for transporting grain, etc.; to prevent discrimination for or agains any person or corporation needing these cars; in other words, to secure fair play between the railroads and the people, a railroad commission consisting of from one to three members has been established in many states by the legislature.

The railroad commissioners have authority to establish a maximum rate for passengers and freight, to regulate the building of warehouses and the handling of grain. They visit the different parts of the state to see that reasonable facilities are afforded, to hear complaints, and to adjust differences. They also appoint and supervise the work of the chief grain inspector. The railroad companies are required to report annually such facts as the commissioners call for.

Insurance Commissioner.—To protect the people from unreliable insurance companies, there is an officer called the insurance commissioner. No insurance company can legally transact business in the state until it has satisfied the commissioner that its methods of insurance and its financial condition are such as to give the security promised to those insured by it. The certificate of authority granted to any company may be revoked by the commissioner at any time if the company refuses or neglects to comply with the conditions established by law.

State Librarian.—Each state has a valuable library for the use of the members of the state departments. It is in charge of the state librarian, who acts under prescribed rules.

Officers Peculiar to Certain States.—There are in some states other officers, necessitated by special industries. Thus, in Minnesota, where the grain, dairy and lumber interests are very important, there are inspectors of grain, a dairy commissioner, and surveyors-general of logs.

Minnesota has two other state officers. The first should receive especial attention.

Public Examiner.—To render assurance doubly sure that public money shall be used only for the purposes for which it is designed, provision is made for the appointment of "a skillful accountant, well versed in the theory and practice of bookkeeping," to exercise constant supervision over the financial accounts of state and county officers and of banking institution incorporated under state laws. This officer is called the public examiner.

For obvious reasons, he cannot hold any other office under the state, or any county, municipality, or institution therein, or in any bank created under state law.

Among his duties are the following:

1. To visit the several public, educational, charitable, penal, and reformatory institutions of the state at least twice a year, at irregular periods and without notice to the officers thereof, and make an exhaustive examination of the books and accounts thereof, including the purposes and items of expenditure and the vouchers therefor.

2. To visit for similar purposes at least once a year, without notice, the offices of state and county treasurers and auditors; to investigate the character and financial

standing of bondsmen, and then to approve or reject them; to establish a correct and, so far as practicable, uniform system of bookkeeping by said officers.

3. To visit at least once a year without notice each banking institution incorporated by the state, and ascertain its financial condition and the security afforded to depositors.

The officers visited are required by law to furnish the public examiner facilities for his work, and to make returns to him under oath. The examiner reports to the governor, who is empowered to take action to protect the interests of the people.

Oil Inspector.—To protect the people from the danger of burning oil unfit for illuminating purposes, there is an officer called the inspector of illuminating oils. The inspector appoints a deputy for each county. It is the duty of these officers to test the illuminating oils offered for sale, and to mark the barrel or package containing it "approved" or "unsafe for illuminating purposes," as the case may be. Penalties are attached to the selling of oils not approved.

Appointment and Term.—The officers named in this chapter are elected in some states; in others they are appointed by the governor and confirmed by the senate. The term is usually two years.

All are required to give bonds for the faithful discharge of their duties. All have clerks, deputies, or assistants, appointed by themselves, for whose official acts they are responsible.

Administrative Boards.

Besides the boards in charge of the several state institutions there are usually a number of administrative boards. Of these the most important are:

1. *The state board of health*, whose duty it is "to make inquiries concerning the causes of disease, especially of epedemics; the effect of employments, conditions, and circumstances upon the public health," etc.

2. *The state board of charities and corrections*, whose duty it is "to investigate the whole system of public charities and correctional institutions of the state, and examine into the condition and management thereof, especially of prisons, jails, infirmaries, public hospitals, and asylums; * * * * and all plans for new jails and infirmaries shall before adoption by the county authorities be submitted to said board for suggestion and criticism."

3. *State board of equalization*, which equalizes assessments throughout the state so as to render taxation as nearly just as possible. This board takes cognizance only of *classes* of property; it does not attempt to correct individual grievances.

4. *The state board of immigration*, appointed "to encourage immigration, by disseminating information regarding the advantages offered by this state to immigrants."

5. *The commissioners of fisheries*, whose duty is to increase the number of food fish in lakes and rivers. To this end the board secures from the United States commissioner of fisheries the quota of spawn allotted from time to time to the state, and from other sources spawn of such fish as seem desirable, and has them placed in such lakes and rivers as they will be most likely to thrive in.

The members of these boards are appointed by the governor. They serve without pay, except the board of equalization. The state pays the expenses incident to the discharge of their duty. The secretary of each board receives a salary, specified by law.

Some Pertinent Questions.

Locate the state university, the state normal schools, all of the schools for the unfortunate, the lunatic asylums, the state prisons.

What is the maximum rate per mile that can be charged by railroads for the transportation of passengers in this state? How came this to be? If a farmer wished to ship a carload of wheat without putting it into a warehouse, how could he get a car? If a car were refused what could he do?

Examine the end of a kerosene cask, and find out what the marks on it mean. By reference to the latest report of the secretary of the state board of immigration, find out what inducements to immigrants this state offers. Is there probably such a board as this in the eastern states? Why? In European countries? Why?

Does your school receive copies of the pamphlets issued by the state board of health?

CHAPTER XV.

THE JUDICIAL DEPARTMENT.

We have seen that minor differences may be adjudicated in each town, village and city, by justices of the peace and municipal courts; and that courts having jurisdiction unlimited as to the amount at controversy are held in every county. And these may all be properly called state courts, the state being subdivided into judicial districts, each comprising one or more counties, for the purpose of bringing justice within the reach of every person. But there is also in every state a

STATE SUPREME COURT.

Need of.—The supreme court is needed for the following reasons:

1. *To review cases on appeal.* Notwithstanding the great care exercised in the lower courts, errors are liable to occur, and the person aggrieved may ask for

a new trial. If this be denied, he may appeal to the supreme court. Appeals are usually taken on one or more of three bases—(a) On exceptions to rulings of the judge as to the admissibility of testimony; (b) On exceptions to the judge's charge to the jury; (c) On the ground that the verdict of the jury is not warranted by the evidence.

2. *To interpret the law.* The exceptions referred to in the preceding paragraph may involve the meaning of a law. In that case the decision of the supreme court establishes the meaning of the law in question, and the lower courts of the state are thereafter bound by the interpretation given.

3. *To pass upon the constitutionality of a law.* The appeal may be made for the purpose of testing the constitutionality of a law. If declared unconstitutional by the supreme court, the law is void.

4. *To issue certain remedial writs.* Among these may be mentioned the writ of *habeas corpus* and the writ of *mandamus*. Thus, if a person has been committed to prison by decree of one of the lower courts, to appeal the case and get it reviewed, might take so much time that the term of imprisonment would expire before relief could be obtained. To bring the matter quickly to the test, the writ of *habeas corpus* may be used.

How Constituted.—The supreme court consists of one chief justice and two or more associate justices. The number in each state may be seen by reference to the appendix (pp. 296-7), as may also the term of service, the number of sessions held during the year, etc.

Reports.—Since the decisions of the supreme court are binding upon all the lower courts of the state, they must be published in permanent form. To this end, the clerk of the supreme court makes an elaborate record of

each case; the judges render their decisions in writing, giving their reasons at length; and the reports of the decisions are prepared for publication with great care by an officer called the reporter. The decision is written by one of the judges, who signs it, but it must be agreed to by a majority of the court. The bound volumes of reports are found in every lawyer's library.

A Court of Final Appeal.—In all cases involving only state laws, and this includes a large majority of cases, the decision of the state supreme court is final. Only on the ground that the state law is not in harmony with the constitution or laws of the United States can a case involving such a law be appealed from the supreme court of the state. The appeal is to the supreme court of the United States, which decides merely the question of the validity of the law.

State Courts and Federal Courts.—The jurisdiction of the United States courts is given in the constitution of the United States, Article III, section 2. If during the progress of a trial in a state court, rights claimed under the United States constitution or laws or under a treaty of the United States become involved, the case may be removed to a federal court.

No Jury in the Supreme Court.—There is no jury in the supreme court. Questions of fact are determined in the lower courts. Appeals are on questions of law. If the appeal is on the ground that the verdict is not warranted by the evidence, a copy of the testimony is submitted to the court.

Some Pertinent Questions.

Give the jurisdiction of a justice court. Of a probate court. Of a district or circuit court. Of the supreme court?

Who is the recording officer of a justice court? Of a probate court? Of a district court? Of the supreme court?

Who keeps a record of the testimony in a justice court? In

a district court? What is meant by "noting an exception," and why is it done? If a person is dissatisfied with the decision of the supreme court, what can he do about it?

Who besides the judges of the supreme court can issue the writ of *habeas corpus*?

Name the justices of the supreme court of this state. How are they chosen? How long do they serve? How many terms does this court hold annually? Where are they held? How long do they last? Read some of the syllabi of the decisions as they appear in the newspapers. Who prepares these outlines for the press?

Which state in the Union has the largest supreme court? Which has the smallest? Which demands the highest qualifications? In which is the term the longest? In which the shortest Does a decision of the supreme court of New York have any weight in Minnesota? Which states rank highest in the value attached to the decisions of their supreme courts? How do you account for this?

Paper: By means of pages 292–7, &c., prepare a tabular view of your state, taking that on pages 314–15 as a model.

CHAPTER XVI.

Retrospect and Prospect.

Each Organization a Miniature Government.— Some things of general interest are matters for regulation by the state as a whole, through its legislature. But many things are properly left to local regulation. For instance, in a timbered town, where fences can be cheaply built, it may be desirable, especially if there is much wild land, to let cattle run at large, each person *fencing out* the cattle from his crops. On the other hand, in a prairie town, where fencing is expensive, or where there is little wild land, it may seem best to arrange that each person shall *fence in* his own cattle. No persons can judge which is the better plan for a given neighborhood so well as the people who live there. And to them it is left, to be deter-

mined at the annual meeting. In passing upon such questions, in appropriating money for local improvements, &c., powers pseudo-*legislative* are exercised. Matters of detail are determined by the supervisors, and they with the clerk, the treasurer, the road overseers, the constables, and the assessor, constitute what may be called the *executive*, or more properly the *administrative*, department. And the local *judicial* functions are performed by the justices of the peace. Similarly it may be shown that the village, the city, and the county are governments in miniature.

Local Officers as State Officers.—The governor is the *chief* executive officer of the state, but not the *only* one. There are others enumerated on pages 90–99. But besides these, the state uses local officers in part to carry into execution the acts of the legislature. For instance, when the legislature has appropriated a certain sum for a specific purpose, the executive department raises and applies the money. To this end, the taxable property of the state is "valued" by the assessors; these estimates are reviewed by the boards of equalization; the county auditors make up the tax lists; the county treasurers collect the money and transmit it to the state treasurer, from whom it goes to the institution for whose benefit it was appropriated.

All writs issued by justices of the peace run in the name of the state, showing that these are in a certain sense state judicial officers.

State Officers as United States Officers.—As a rule the United States appoints its own officers, and stations them where they are needed. But in a very few cases, state officers are used. For instance, that persons accused of crime against the United States may be promptly apprehended, commissioners of the United

States circuit court are appointed in every state with power to issue warrants of arrest and take testimony. But in the absence of a commissioner, the warrant may be issued and testimony taken by any judicial officer of the state. In such a case, a justice of the peace may act temporarily as a United States officer. The best interests of society are served thereby.

Elective and Appointive Officers. — In the school district and the town all officers are elected, none being appointed except to fill vacancies. As the organizations increase in size, appointive offices increase relatively in number, until among officers of the United States only two are elected. Members of the *legislative* department in each of the organizations are elected.

Vacancies.—These occur usually either by death or resignation, occasionally by removal from office. To save the expense of a special election, vacancies in elective offices are filled by temporary appointment, except in the case of members of the legislature and members of the United States house of representatives.

Resignations.—These are sent as a rule: (a) by elective officers, to that officer who is authorized to make the temporary appointment or to order a new election; (b) by appointive officers, to the body, board, or officer that appointed them.

Pertinent Questions.

Who constitute the legislative department in a town? In a village? In a city? In a county? The executive in each? The judicial? Show that the county superintendent of schools is also one of the executive officers of the state. Do any local officers belong to the state legislative department? Should the judges of the circuit court be elected or appointed? Should all the county officers be elected at the same time? To whom would a member of congress send his resignation if he desired to be relieved? A judge of the state supreme court? The county auditor?

PART III.

THE NATION.

CHAPTER XVII.

HISTORICAL.

In order to understand the government of the United States, we must examine its beginnings and antecedents.

THE COLONIES.

When Columbus returned to Spain with his marvelous stories of the New World, expeditions were fitted out which soon filled the coffers of that country with wealth from Mexico, Central and South America, and the West Indies. Spain became the wealthiest nation of the world. Other countries soon caught the infection, and expeditions were sent from France, Holland and England, the other great commercial nations of western Europe.

For a long time scarcely any effort was made to form permanent settlements, and the attempts that were by and by made were unsuccessful. For more than a hundred years the territory now included within the United States remained unoccupied, except at a few points in the southern part. Explorations were, however, pushed with vigor, and many conflicting claims were based upon them.

About the beginning of the seventeenth century permanent settlements began to be made, yet the increase in population was for the succeeding hundred and fifty years very slow. During this time settlements were made in the tropical part of America by the Spanish; The French founded settlements in Canada, and established a chain of forts along the Ohio and Mississippi; and the English, though claiming all the land to the Pacific, made settlements only along the Atlantic. The Dutch and the Swedes made settlements along the Hudson and about Delaware Bay, respectively.

By the middle of the eighteenth century, the Swedes had been dispossessed by the Dutch, who in turn had succumbed to the English. And in 1756 began the great struggle between France and England for the possession of the Mississippi Valley. England won, and the existence of the United States as we know and love it became a possibility.

THE CAUSES OF THE REVOLUTION.

The causes of the Revolutionary War fall naturally into two great classes, the remote and the immediate.

The Remote Causes.—Among the underlying causes of the war may be mentioned the following:

1. *The location of the colonies.* They were separated from the mother country by a great ocean, which then seemed many times as wide as it does now. Communication was so infrequent that the authorities in England could not keep track of what was going on in America, and misgovernment could flourish unchecked because unknown. And so far away and so differently circumstanced from the people in England were the people of the colonies that the former could not appreciate the real needs of the latter.

2. *The character of the colonists.* Character is the product largely of ancestry and circumstances. The ancestors of these people, after a struggle lasting hundreds of years, had established liberty in England and intrenched it in guarantees the wisest ever devised by man. From them the colonists inherited the right of freedom from arbitrary arrest; of giving bail in ordinary offenses; of a speedy, public trial by jury, near the place where the crime was alleged to have been committed; of the writ of habeas corpus; of established rules of evidence; and, indeed, of all the rights mentioned in the first ten amendments to the constitution of the United States. Their ancestors had, in the war between Cromwell and Charles I. laid down their lives to establish the principle that taxes can be laid only by the people or by their representatives. The colonists themselves had been compelled to face difficulties incident to life in a new country, and had developed the power to act independently in matters pertaining to their individual good. And in the management of their several commonwealths they had gained considerable experience in governmental affairs. With such ancestry and such experience they would not tamely endure being imposed upon.

3. *The character of the king.* On the death of Queen Anne without an heir, George I., elector of Hanover, had become king of England, and he had been succeeded by his son, George II. To both of these kings England was really a foreign country, of whose institutions, and of whose language even, they were profoundly ignorant. As a consequence, their personal influence in England was small. When, in 1760, young George III. ascended the throne, he resolved to be king in fact as well as in name. This determination, which he adhered to, coupled with his unfamiliarity with English institu-

tions, explains many things otherwise difficult to understand. See Fiske's War of Independence, pp. 58–70.

4. *The prevailing mode of colonization.* Many of the colonies had been founded for commercial reasons merely with no intention of forming governmental institutions. Chartered companies and individuals planted settlements for the profit there was supposed to be in doing so. These colonies were designed to be merely "self-supporting trading outposts of England." Money had been put into these enterprises, and in the effort to secure a profitable return many unjust commercial restrictions were imposed upon the colonists.

Immediate Causes.—Among the immediate causes of the Revolutionary War may be mentioned:

1. *The French and Indian War.* In the first place, this war facilitated the union of the colonies. Several attempts at union had failed; there were too many opposing influences. While by far the greater number of the colonists were English, there were many Dutch in New York, and some Swedes remained in Delaware. Moreover, the English themselves differed radically in politics, those in the South having been royalists, while those in New England sympathized with Cromwell and parliament. But more serious than these political differences, were the differences in religion. The old European quarrels had an echo here, and the catholics of Maryland, the episcopalians of Virginia, the puritans of Massachusetts, the baptists of Rhode Island, the lutherans of New York, and the quakers of Pennsylvania, all had grievances to remember. Travel, which does so much to broaden the mind and free it from prejudice, was both difficult and dangerous. The French and Indian War, bringing together men from all the colonies, was of great service in breaking down intercolonial animosities.

Facing the same dangers, standing shoulder to shoulder in battle, and mingling with each other around the camp fires, the men of the several colonies came to know each other better, and this knowledge ripened into affection. The soldiers on their return home did much to dis seminate the good feeling.

In the second place, the French and Indian War by annihilating all the claims of France to American soil removed the principal enemy that had rendered the protection of England necessary to the colonies.

In the third place, this war gave the colonists an experience in military affairs and a confidence in their own powers which emboldened them to dare open rebellion.

And in the fourth place, this war produced the debt which led to the taxation which was the most immediate cause of the outbreak.

2. *Various tyrannical acts of the king.* These are given explicitly in the Declaration of Independence.

Some Pertinent Questions.

Name a country in the world's history that ever allowed its colonies representation in its home parliament or legislative body. Name one that does it today. Why do territories in this country desire to become states?

Name some country, other than England, which could have given birth to the United States. Prove your proposition.

The Duc de Choiseul, the French minister who signed the treaty whereby France yielded to England her claims to American soil, remarked after doing it, "That is the beginning of the end of English power in America." What did he mean? Upon what did he base his opinion? Why did France help the Americans in the Revolutionary War?

What is meant, in speaking of the colonies, by *royal province? Charter* government? *Proprietary* government?

What experience in law making did the colonists have? Where and when did the first representative assembly in America convene? Find in the Declaration of Independence an expression complaining of non-representation in parliament.

To the patriotic and far sighted men who had striven to form a union of the colonies, did the religious differences

which frustrated their plans seem fortunate or unfortunate? Can you see how it came about that we have no state church, that we enjoy religious freedom? Doesn't it seem that there must have been a Planner wiser than any man who was working out His own designs?

CHAPTER XVIII.

The Articles of Confederation.

WHAT PRECEDED THEM.

The Birth of the Nation.—The nation was born July 4, 1776. The Declaration of Independence, which severed the connection of the colonies with Great Britain, was issued "by the authority of the good people of these colonies;" not, be it observed, by the *states* but by the *people*. This is an important distinction, because it helps to determine the real nature of this government. The advocates of the state sovereignty idea, upon which the southern states claimed in 1861 the right to secede, based their doctrine upon the proposition that the states created the general government. If so, they must have had an independent, sovereign existence antedating that of the nation. Upon this point Dr. Pomeroy in his treatise on constitutional law says, "There never was, in fact, a moment's interval when the several states were each independent and sovereign. While colonies they unitedly resisted, revolted, declared their combined political society independent. The blow which severed the connection with the British Empire, did not leave a disintegrated mass made up of thirteen communities now independent; it left an united mass, a nation possessing the high attributes of sovereignty which it had just exercised. The United States was then a fact, and no

power but that which called it into being—the people —is competent to decree the national destruction."

The revolutionary period.—From July 4, 1776, till the adoption of the articles of confederation in 1781, the people of the United States carried on their governmental affairs by means of a congress which was "clothed with undefined powers for the public good."

THE ARTICLES THEMSELVES.

Their history.—When, on the eleventh of June, 1776, a committee of the congress was appointed to draft a declaration of independence, another committee was appointed to frame a plan of government. After a month's deliberation this committee reported its plan, which, after undergoing much discussion and several modifications, was finally adopted by the congress, November 15, 1777. These articles of confederation, as they were called, were not ratified very promptly; but finally on March 1, 1781, Maryland, the last state to ratify, signed the articles, and they became operative. The ratification was done by the delegates to the congress.

Their peculiarities.—The articles of confederation were different in many respects from our present constitution. Among the more important provisions and peculiarities were the following:

1. *The nature of the government formed.* The union was declared to be a "firm league of friendship." It was to be perpetual.

2. *The departments of government.* Only one department was provided for, a congress. No provision was made for executive or judicial officers apart from the congress itself.

3. *The structure of the congress.* The congress con-

sisted of only one house or chamber. Members were elected for one year, subject to recall at any time, and they were paid by their respective states. No person was eligible to membership for more than three years in any period of six years. No state could be represented by "less than two, nor more than seven members." Each state had one vote.

4. *The powers of congress.* "The United States in congress assembled" had power to treat with foreign countries, to send and receive ambassadors, to determine peace and war; was the last resort on appeal in all disputes between the states; could fix the standard of weights and measures, and of the fineness of coin; could establish and regulate postoffices; could ascertain and appropriate "the necessary sums of money to be raised for the service of the United States;" could borrow money "on the credit of the United States;" could agree upon the number of land forces and make requisition on each state for its quota; and could appoint a committee consisting of one member from each state, to sit during the vacations of congress.

5. *Powers denied to the states.* No state could enter into any treaty with another state or with a foreign nation, nor engage in war, except by consent of "the United States in congress assembled;" nor keep vessels of war or a standing army in time of peace, except such number as congress should deem necessary.

Reasons for the peculiarities.—Suffering breeds caution. Every one of the peculiarities is based upon distrust.

The people were afraid to trust their delegates. This is manifest in the shortness of the term, the provision for recall, the reserved right to control the delegates

by controlling their pay, and the limitation as to service.

The states were afraid of each other, especially were the small states distrustful of the large ones. This is evidenced in the provision that each state should have one vote. By this arrangement the states had equal power in the congress.

The people and the states were afraid of the general government. A central government was a necessity, but it was given only very limited powers. The people would not have an executive officer, because they feared anything resembling kingly rule. They did not dare to establish a national judiciary having jurisdiction over persons and property, because their experience with "trials beyond the sea" had made them wary of outside tribunals.

It is to be observed, however, that with all their distrust, in spite of the fact that their colonial or state jealousies and habits had returned upon them, notwithstanding their specific statement in the instrument itself that "each state retains its sovereignty," the instinct of nationality was yet strong enough to cause them to continue in the general government the actual sovereign powers. Thus, the "United States" alone could treat with foreign nations, declare war, and make peace. Another great sovereign power, that of coining money, was unfortunately shared by the states.

Their defects.—The great defect in the articles of confederation was that they left too little power in the hands of the general government. Although congress possessed the right to declare war, it could only apportion the quota of men to each state. The states raised the troops. And so on with the other powers. The government of the United States during the confed-

eration period was "a name without a body, a shadow without a substance." An eminent statesman of the time remarked that "by this political compact the continental congress have exclusive power for the following purposes without being able to execute one of them: They may make and conclude treaties; but they can only recommend the observance of them. They may appoint ambassadors; but they cannot defray even the expenses of their tables. They may borrow money on the faith of the Union; but they cannot pay a dollar. They may coin money; but they cannot buy an ounce of bullion. They may make war and determine what troops are necessary; but they cannot raise a single soldier. In short, they may declare everything, but they can do nothing."

The consequences.—"The history of the confederation during the twelve years beyond which it was not able to maintain itself, is the history of the utter prostration, throughout the whole country, of every public and private interest,—of that which was, beyond all comparison, the most trying period of our national and social life. For it was the extreme weakness of the confederate government, if such it could be called, which caused the war of independence to drag its slow length along through seven dreary years, and which, but for a providential concurrence of circumstances in Europe, must have prevented it from reaching any other than a disastrous conclusion. When, at last, peace was proclaimed, the confederate congress had dwindled down to a feeble junto of about twenty persons, and was so degraded and demoralized, that its decisions were hardly more respected than those of any voluntary and irresponsible association. The treaties which the confederation had made with foreign powers,

it was forced to see violated, and treated with contempt by its own members; which brought upon it distrust from its friends, and scorn from its enemies. It had no standing among the nations of the world, because it had no power to secure the faith of its national obligations. For want of an uniform system of duties and imposts,* and by conflicting commercial regulations in the different states, the commerce of the whole country was prostrated and well-nigh ruined. * * * Bankruptcy and distress were the rule rather than the exception. * * * The currency of the country had hardly a nominal value. The states themselves were the objects of jealous hostility to each other. * * * In some of the states rebellion was already raising its horrid front, threatening the overthrow of all regular government and the inauguration or universal anarchy."†

CHAPTER XIX.

The Origin of the Constitution.

"For several years efforts were made by some of our wisest and best patriots to procure an enlargement of the powers of the continental congress, but from the predominance of state jealousies, and the supposed incompatibility of state interests with each other, they all failed. At length, however, it became apparent, that the confederation, being left without resources and without powers, must soon expire of its own debility.

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* Each state regulated its own commerce.

† Dr. J. H. McIlvaine in Princeton Review, October, 1861. Read also Fisk's Critical Period of American History, chapter IV.

It had not only lost all vigor, but it had ceased even to be respected. It had approached the last stages of its decline; and the only question which remained was whether it should be left to a silent dissolution, or an attempt should be made to form a more efficient government before the great interests of the Union were buried beneath its ruins."*

Preliminary Movements.—In 1785 a resolution was passed by the legislature of Massachusetts declaring the articles of confederation inadequate, and suggesting a convention of delegates from all the states to amend them. No action, however, was taken. In the same year commissioners from Virginia and Maryland met at Alexandria, Va., to arrange differences relative to the navigation of the Potomac, the Roanoke, and Chesapeake Bay. The deliberations showed the necessity of having other states participate in the arrangement of a compact. In 1786 the legislature of Virginia appointed commissioners "to meet such as might be appointed by the other states of the Union, * * * to take into consideration the trade of the United States." Only four states accepted the invitation. Commissioners from the five states met at Annapolis, and framed a report advising that the states appoint commissioners "to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the federal government adequate to the exigencies of the Union."† In accordance with this suggestion, congress passed a resolution, February 21, 1787, recommending that a convention of delegates who shall have

* Story.
† Elliot's Debates.

been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the articles of confederation."*

The Constitutional Convention.—In response to the call of congress, delegates from all the states except Rhode Island met in Philadelphia. By May 25, a quorum had assembled, the convention organized, with George Washington as chairman, and began its momentous work.

It was soon discovered that it would be useless to attempt to amend the articles of confederation. They were radically defective, and a new plan of government was seen to be necessary. The national idea must be re-established as the basis of the political organization.

"It was objected by some members that they had no power, no authority, to construct a new government. They certainly had no authority, if their decisions were to be final; and no authority whatever, under the articles of confederation, to adopt the course they did. But they knew that their labors were only to be suggestions; and that they as well as any private individuals, and any private individuals as well as they, had a right to propose a plan of government to the people for their adoption. * * * The people, by their expressed will, transformed this suggestion, this proposal, into an organic law, and the people might have done the same with a constitution submitted to them by a single citizen."†

The labors of the convention lasted four months. The constitution was agreed to September 15, 1787.

Some of the difficulties encountered.—Of these perhaps the most formidable was the adjustment of power

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*Elliott's Debates.
†Pomeroy's Constitutional Law, p. 55.

so as to satisfy both the large and the small states. So long as the idea of having the congress consist of one house remained, this difficulty seemed insurmountable. But the proposal of the bicameral congress proved a happy solution of the question.*

Although so much distress had followed state regulation of commerce, and although most of the delegates from the commercial states were in favor of vesting this power in the federal government, it was only after much deliberation, and after making the concession that no export duties should be levied, that the power to regulate commerce was vested in congress.

Another perplexing question was the regulation of the slave trade. For two days there was a stormy debate on this question. By a compromise congress was forbidden to prohibit the importation of slaves prior to 1808, but the imposition of a tax of ten dollars a head was permitted.

The men who constituted the convention.—The convention included such men as George Washington, Alexander Hamilton, Benjamin Franklin, James Madison, Roger Sherman, Gouverneur Morris, Edmund Randolph, and the Pinckneys. "Of the destructive element, that which can point out defects but cannot remedy them, which is eager to tear down but inapt to build up, it would be difficult to name a representative in the convention."†

The constitution a growth.—The constitution was not an entirely new invention. The men who prepared it were wise enough not to theorize very much, but rather to avail themselves of the experience of the ages. Almost every state furnished some feature. For in-

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*See discussion of section 1, Article I., Constitution, page 124.
†Cyclopedia of Political Science, vol. I., article "Compromises."

stance: The title President had been used in Pennsylvania, New Hampshire, Delaware, and South Carolina; The term Senate had been used in eight states; the appointment and confirmation of judicial officers had been practiced in all the states; the practice of New York suggested the president's message, and that of Massachusetts his veto; each power of the president had its analogy in some state; the office of vice-president came from that of lieutenant governor in several of the states.

Some of its peculiarities.—And yet the instrument is one of the most remarkable ever penned by man.

1. *It is short.* It would not occupy more than about two columns of a newspaper.

2. *It covers the right ground.* It deals with things permanent, and leaves transient matters to legislation. Its adaptation to our needs is seen in the fact that it has remained substantially unchanged, although in territory and population our country has grown immensely.

3. *It is a model in arrangement and language.* The lucidity and perspicuity of the language of the constitution have called forth expressions of admiration from all who have studied it carefully. Probably its master-stroke is the creation of the national judiciary. "The supreme court has no prototype in history."

Let us now proceed to a study of the instrument itself, prepared to weigh every sentence.

Some Pertinent Questions.

Group all the defects of the government under the articles of confederation using these two heads: 1. Defects in organization. 2. Defects in essential powers.

In the constitutional convention there were several "plans" proposing forms of government. State the provisions of the Virginia plan; of the New Jersey plan; of the Hamilton plan; the Connecticut plan. Watch for traces of each as you proceed in your study of the constitution.

Memorize the following outline of the constitution:

GENERAL OUTLINE OF THE CONSTITUTION.

PREAMBLE, giving reasons for the formation of the constitution.

ARTICLE I.—*The Legislative Department.*

- Sec. 1. Vestment of power in a congress of two houses.
- Sec. 2. House of representatives: apportionment, qualifications, election, term, sole powers.
- Sec. 3. Senate: apportionment, qualifications, election, term, sole powers.
- Sec. 4. Congress: time and place of election, time of meeting.
- Sec. 5. Houses respectively: relations to members.
- Sec. 6. Provisions common: privileges and disabilities.
- Sec. 7. Mode of passing laws.
- Sec. 8. Powers of congress.
- Sec. 9. Prohibitions on congress.
- Sec. 10. Prohibitions on the states.

ARTICLE II.—*The Executive Department.*

- Sec. 1. Vestment of power, term, qualifications, election, etc.
- Sec. 2. Powers.
- Sec. 3. Duties.
- Sec. 4. Responsibility.

ARTICLE III.—*The Judicial Department.*

- Sec. 1. Vestment of authority, appointment, term, etc.
- Sec. 2. Jurisdiction.
- Sec. 3. Treason, definition, procedure.

ARTICLE IV.—*The States.*

- Sec. 1. Mutual credit of official papers.
- Sec. 2. Inter-state relations.
- Sec. 3. New states and territories.
- Sec. 4. Republican form of government guaranteed.

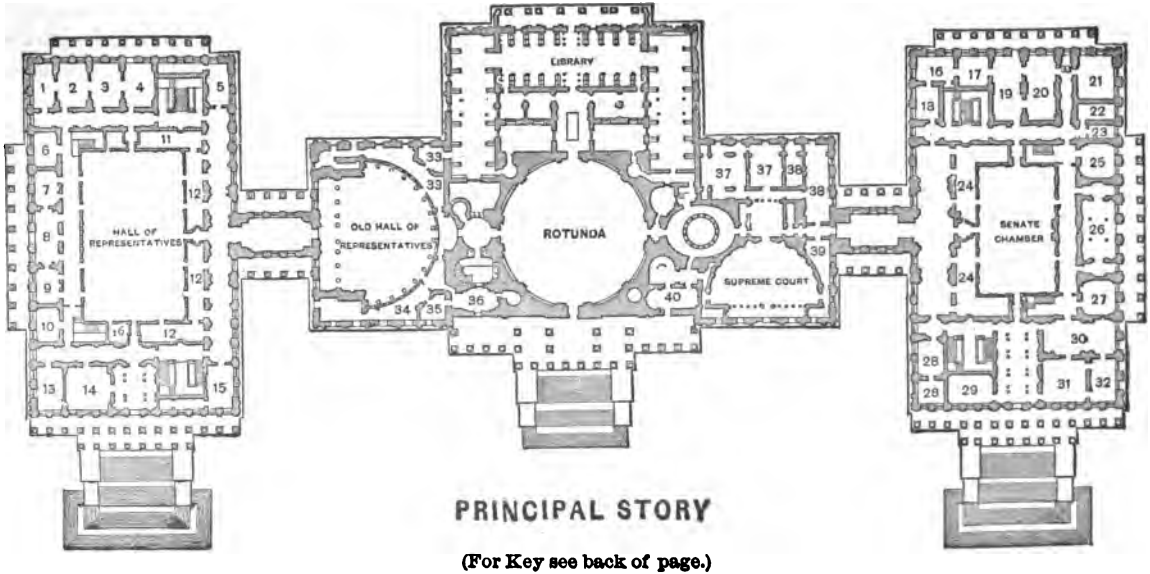
ARTICLE V.—*Mode of Amending the Constitution.*

ARTICLE VI.—*Miscellaneous.*

ARTICLE VII.—*Ratification.*

AMENDMENTS.

- 1–10. Personal rights guaranteed.
- 11. Limitation on Jurisdiction of U. S. Courts.
- 12. Mode of electing the president and vice-president.
- 13–15. Fruits of the Civil War.



PRINCIPAL STORY

(For Key see back of page.)

THE PRINCIPAL STORY OF THE CAPITOL.

HOUSE WING.

Room.

1. Office of the Speaker.
2. Office of the Sergeant-at-Arms.
3. Committee on Rivers and Harbors.
4. Journal and Printing Clerks of the House.
5. Committee on Naval Affairs
6. Closets.
7. } Members' Retiring Room.
8. }
9. }
10. Committee on Appropriations.
11. Hall Folding-Room.
12. Cloak Rooms.
13. Committee on Appropriations.
14. Committe on Ways and Means.
15. Committee on Military Affairs.
16. House Library.

MAIN BUILDING.

Room.

33. House Document Room.
34. Index-Room.
35. House Committee on Banking and Currency.
36. Clerk House Representatives. It was in this room, then occupied by the Speaker of the House, that ex-President John Quincy Adams died, two days after he fell at his seat in the House, February 23, 1848.
37. Office of the Clerk of the Supreme Court.
38. Robing-Room of the Judges of the Supreme Court.
39. Withdrawing-Room of the Supreme Court.
40. Office of the Marshal of the Supreme Court.

The Supreme Court formerly the Senate Chamber.

The Old Hall of the House of Representatives is now used as a statuary hall, to which each State has been invited to contribute two statues of its most distinguished citizens.

The Congressional Library contains 590,000 volumes and 180,000 pamphlets.

SENATE WING.

Room.

16. Office of the Secretary of the Senate.
17. Executive Clerk of the Senate.
18. Financial Clerk of the Senate.
19. Chief Clerk of the Senate.
20. Engrossing and Enrolling Clerks of the Senate.
21. Committee on Appropriations.
22. Closets.
23. Committee on Enrolled Bills.
24. Cloak Rooms.
25. Room of the President, etc.
26. The Senators' Withdrawing-Room.
27. The Vice-President's Room.
28. Committee on Finance.
29. Official Reporters of Debates.
30. Reception-Room.
31. Committee on District of Columbia.
32. Office of the Sergeant-at-Arms of the Senate.
33. Elevator.

CHAPTER XX.

THE CONSTITUTION OF THE UNITED STATES.

THE ENACTING CLAUSE[1] OR PREAMBLE.

We, the people of the United States,[2] *in order to form a more perfect union,*[3] *establish justice,*[4] *insure domestic tranquillity,*[5] *provide for the common defense,*[6] *promote the general welfare,*[7] *and secure the blessings of liberty to ourselves and our posterity,*[8] *do ordain and establish this constitution for the United States of America.*

[1] The preamble or enacting clause is very important, because it states the purposes for which the constitution was framed, and is, therefore, a valuable aid in interpreting its provisions.

[2] These words are important, because: First, they recognize the people as the source of power. Second, they show that the constitution is different in nature from the articles of confederation. The latter was a compact between states, adopted by state legislatures acting for the states as such; the former was "ordained and established" by "the people of the United States," *one* people, acting as a unit. And the expression, which was inserted in the preamble after due deliberation, is, therefore, an argument in favor of the proposition that this is a *nation* and not a mere confederacy.

[3] "More perfect" than under the articles of confederation, in which the states were declared sovereign and independent. The sovereignty is given by the constitution to the general government, which is clothed with ample power to maintain its independence. At the same time such limitations are placed upon its power as will prevent its becoming despotic.

[4]To establish justice is one of the primary purposes of government. Under the articles of confederation there had been no national judiciary, and state courts often discriminated against foreigners and citizens of other states. To remedy this, to establish fair-handed justice throughout the land, the national judiciary was created by the constitution.

[5]"Domestic tranquillity" means here peace among the states and within each state. The condition of affairs during the confederation period had been woeful. A long war had impoverished the people, and unable to pay their taxes they had in several places broken out in rebellion. Each state by commercial regulations was trying to better its fortunes even at the expense of the others. These regulations and disputes about boundaries kept the states quarreling among themselves.

By transferring to the general government the power to regulate commerce with foreign nations and among the states, by giving it power to enforce treaties, and by creating a tribunal with authority to settle controversies between states, the framers of the constitution removed in a large measure the irritating causes of discord. But to *insure* peace, the general government was expressly given power to put down insurrections in the states.

[6]To defend the country is another of the important duties of government. The United States could do this better than each state could defend itself. Several reasons are obvious. Therefore the general government was empowered to raise and maintain an army and navy, and it thus became "competent to inspire confidence at home and respect abroad."

[7]"To promote the general welfare" was the great object for which the government was organized, and all

the provisions of the constitution have that in view. This expression was intended to cover all those things which a government may properly do for the good of the people. It is very elastic, as it was intended to be, and has covered acts as different as the purchase of Louisiana, and the endowment of agricultural colleges, the granting of a patent, and the establishment of post-offices.

[8] This is a worthy climax to the preamble. The great struggle, which began in the mother country, continued through colonial times, and culminated in the revolution, had been for liberty. The love of liberty had illumined the pathway of the pilgrims crossing unknown seas; it had glowed in the Declaration of Independence; it had warmed the hearts of the half-clad soldiers at Valley Forge.

Liberty had now been won; the problem was how to render it secure. The desired security was to be found only in the formation of a government having all powers necessary for national sovereignty and independence, while retaining in the states all powers necessary for local self-government.

CHAPTER XXI.

ARTICLE I.—The Legislative Department.[1]

Section I.—Congress.

All legislative powers herein granted, shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.[2]

[1]The division of governmental functions among three departments has already been discussed on page 79.

The legislative department comes first and occupies most space in the constitution because its framers regarded the legislative as the most important department. And laws must be *made* before they can be interpreted or executed.

[2]The *reason* for the creation of two houses or chambers was that thus only could the conflicting claims of the large and small states be reconciled. It was, in fact, a *compromise*, the first of a series.

Only a few in the convention thought at first of having two houses, the plan being to continue as under the articles of confederation with one house. On the question of apportioning representatives, it was found that there was a decided difference of opinion. The small states wished to continue the principle of the articles of confederation, which gave the several states equal power. But the large states insisted that the power of a state should be *in proportion to its population*. The differences were finally settled by the creation of two houses, in one of which the states should have equal power, and in the other the representation should be based upon population.

The *idea* of two houses was borrowed from England.

Among the *advantages* of having two houses, aside from that mentioned on page 80, are these: It tends to prevent a few popular leaders from carrying through laws not designed for the common good; it secures a review of any proposed measure by men elected in different ways and looking at it from different standpoints. As our congress is organized, the members of the house of representatives, being elected by popular vote and for a short term, are likely to represent with

considerable faithfulness the wishes of the people. But the people are sometimes wrong—as, for instance, in the persecution of the "witches"—and senators, who by their mode of election and length of term are made somewhat independent, can comparatively without fear do what seems right, even if temporarily unsupported by public opinion. Thus the senate may be looked upon as the conservative element in our legislative department.

SECTION II.—HOUSE OF REPRESENTATIVES.[1]

Clause 1.—Composition and Term.

The house of representatives shall be composed of members chosen every second year[2] *by the people*[3] *of the several states, and the electors*[4] *in each state shall have the qualifications requisite for electors*[4] *of the most numerous branch of the state legislature.*[5]

[1] So called because it "represents" the people.

[2] The term under the confederation had been one year. This was too short to permit any adequate study of the subjects to be legislated upon. This longer term, two years, is still short enough to impose upon representatives the feeling of responsibility.

The term begins March 4, at noon. The time covered by a representative's term is called *a congress;* thus we speak of the fortieth congress, meaning the fortieth two years of our constitutional existence. The name also applies to the body constituting our national legislative department during that time. Thus we say that a certain person is a member of congress.

"A congress" includes two regular sessions and any number of extra sessions which the president may see fit to call. The first regular session is called "the long

session," because congress may remain in session through the summer, if it choose. The second is called "the short session," because it must end March 4, at noon.

[3] The word *people* here means *voters.*

As a rule, each state is divided by its legislature into congressional districts equal in number to the representatives to which it is entitled, and the people of each district elect one representative. Any state could, if it chose, elect its representatives on a general ticket. Sometimes when a state has its representation increased, the old congressional districts are left undisturbed, and the added representatives are elected "at large," while the others are chosen by districts as before.

[4] Voters.

[5] The qualifications for voting in any state are fixed by the state itself, and different states require different qualifications. When the constitution was framed, but not now, some states required higher qualifications in voters for the upper house of the state legislature than in voters for the lower; so that more persons could vote for members of the lower, which is always the "most numerous" branch, than for the higher. Desiring to make the United States house of representatives as "popular" as possible, the framers of the constitution determined that all whom any state was willing to trust to vote for a member of the lower house of the state legislature, the United States could trust to vote for members of its lower house.

Clause 2.—Qualifications.

No person shall be a representative who shall not have attained the age of twenty-five years,[1] *and been seven*

years a citizen of the United States,[2] *and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.*[3]

[1] For business and voting purposes a man "comes of age" at twenty-one years. Four years of probation are considered the least amount of time necessary to fit him for the responsibilities of a member of the house of representatives.

[2] A born citizen will at twenty-five years of age have been a citizen for twenty-five years. A naturalized citizen must have lived in the United States for at least twelve years[1], five years to become a citizen, and seven years afterwards, before being eligible to the house of representatives. These twelve years will have given him time to become "Americanized."

[3] Residence in the state is required in order that the state may be represented by persons interested in its welfare. No length of time is specified, however. Residence in the district is not required by the constitution, because the distribution of representatives within a state is left to the state itself. A person *may* be chosen to represent a district in which he does not live, and this has been done in a few instances. One does not lose his seat by moving from the district or even from the state, but propriety would impel resignation.

Who may not be Representatives.

1. Persons holding any office under the United States. [I., 6, 2.]

2. Persons who by engaging in rebellion against the United States have violated their oath to support the constitution, unless the disability be removed. [Am. XIV., 3.]

[1] Eight years in the case of an honorably discharged soldier who may become a citizen on one year's residence.

Clause 3.—Apportionment.

The parts of this clause enclosed in brackets are now obsolete.

Representatives and direct taxes[1] *shall be apportioned among the several states which may be included within this Union, according to their respective numbers,*[2] [*which shall be determined by adding to the whole number of free persons,*[3] *including those bound to service*[4] *for a number of years, and*] *excluding Indians not taxed,* [*three-fifths of all other persons.*[5]] *The actual enumeration*[6] *shall be made within three years after the first meeting of the congress of the United States,*[7] *and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand,*[8] *but each state shall have at least one representative;*[9] [*and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.*]

[1] These are like the usual local taxes. Indirect taxes, such as duties on imports, are so called because they are finally paid by the consumer not as taxes but as part of the price of the commodity. U. S. direct taxes have been laid only in 1798, 1813, 1815, 1816, 1862.

[2] The revolutionary war had just been fought to maintain the principle, "taxation and representation go hand in hand," and this provision was made in harmony therewith. The including of direct taxes was a concession to the slaveholding states.

[3] Men, women and children.

[4]Apprentices.

[5]Slaves. The framers of the constitution did not like to use the word "slave," and therefore used this expression. Most of them, even the slaveholders, hoped that slavery would soon cease to be.

In determining the persons to be enumerated, much difficulty was encountered. The slaveholding states wished the slaves counted as individuals, claiming that they had as much right to be represented as had women, children and other non-voters. The non-slaveholding* states thought that being held as property they should not be counted at all for purposes of representation. This provision in the constitution was the outcome, —another compromise.

[6]Called the *Census*. The prime purpose in taking the census is to find out the number of people in each state, so that representation may be equalized. But the census takers collect at the same time a vast amount of other useful information upon the agriculture, manufactures, commerce, etc., of the country. Reports of the census are published by the government for gratuitous distribution.

[7]The first meeting of congress was held in 1789, and the first census was taken in 1790.

[8]To prevent the House from becoming too large. But the population of the United States has constantly and rapidly increased, so that the "ratio of representation," as it is called, has been made greater at each census. It now takes 151,912 people to secure a representative. For ratio in each decade, see pages 310–11.

[9]So that even the smallest states shall be represented.

* In all the states except Massachusetts slavery then existed. But in the northern states the number of slaves was so small, that we may call them "non-slaveholding."

Clause 4.— Vacancies.

When vacancies[1] *happen in the representation from any state, the executive authority*[2] *thereof shall issue writs of election*[3] *to fill such vacancies.*[4]

[1] Vacancies usually happen through the death or resignation of the incumbent. But a vacancy may be made by the expulsion of a member or by the election of an ineligible person.

[2] The governor or acting governor.

[3] That is, he orders an election. The order is printed in the newspapers of the district, and specifies the time the election is to be held. At the time specified the electors vote as in regular elections. This is called a "special election."

[4] The person elected serves for the unexpired term.

Clause 5.—House Powers.

The House of Representatives shall choose their speaker[1] *and other officers;*[2] *and shall have the sole power of impeachment.*[3]

[1] Called so in imitation of the title of the presiding officer of the British House of Commons, who was originally called the speaker because he acted as spokesman in communicating to the king the wishes of the House.

The speaker is chosen by ballot from among the members, and serves during the pleasure of the House. At the beginning of each congress a new election is held. A speaker may be re-elected. Henry Clay served as speaker for ten years.

The duties of the speaker are prescribed by the rules of the House. So far, he has always appointed the

committees. As the work of legislation is largely shaped by committees, it may be fairly asked whether any one else can so affect the legislation of the country as can the speaker—whether, indeed, he has not too much power.

[2]The most important "other officers" are the clerk and the sergeant-at-arms.

The clerk, as his title would indicate, has charge of the records of the House. He has a number of assistants.

The sergeant-at-arms acts under the orders of the speaker in keeping order and in serving processes. His duties in the House resemble those of the sheriff in court.

The doorkeeper, postmaster, and chaplain, have duties indicated by their titles.

These and still other officers are elected by the House and serve during its pleasure. Assistants are usually appointed by the officers whom they assist.

None of these officers are members of the House.

[3]An impeachment is a solemn accusation in writing, formally charging a public officer with crime. "The articles of impeachment are a sort of indictment; and the House, in presenting them, acts as a grand jury, and also as a public prosecutor."*

For further discussion of impeachment, see pages 138, 203 and 331. An account of the impeachment trial of Secretary Belknap is given in Alton's *Among the Lawmakers*, pages 245–250. Mr. B. is hidden under a fictitious name.

On impeachment, see also Wilson's *Congressional Government*, page 275.

* Story's Exposition of the Constitution of the United States.

WRITTEN EXERCISE.

Each member of the class should prepare a tabulation like this, filling out the blanks briefly.

HOUSE OF REPRESENTATIVES.

I. NUMBER—
   1. Based upon.
   2. Limitations.
      (a)
      (b)

II. QUALIFICATIONS.
   1.
   2.
   3.
   4.
   5.

III. ELECTION—

IV. TERM—

V. VACANCY—

Pertinent Questions.

What is a constitution? A law? A preamble? How many of the reasons assigned in the preamble for establishing this government are general and how many are special?

How many houses do most legislative bodies have? How many did the congress under the confederation have? Why? Why has congress two houses?

How many representatives has this state in the U. S. congress? Give their names by districts. In which district do you live? When was your representative elected? By the census of 1880, Alabama had a population of 1,262,505; how many representatives should it have? Nevada had only 62,261 inhabitants, but has a representative; how do you account for the fact? What proportion of U. S. officers are elected?

What is the "most numerous branch" of this state's legislature called? What qualifications must electors to that house have? Whom else can such persons therefore vote for? If this state desired higher qualifications in electors for Uuited States representatives, how could she require them? Should not the United States designate the qualifications of voters for members of congress? May one who is not a citizen of the United States vote for a member of congress?

What is the number of the present congress? When did it begin? How many members in the present House of Representatives? Just how was that number determined? Name the speaker. What political party is in the majority in the present House? Is congress now in session?

Must a representative reside in the *district* from which he is chosen? If your representative should move to another state, would he lose his seat? If a person twenty-four years and ten months old at the time of election should be chosen representative, would he be eligible?

How long must an alien live in the United States to be eligible to the house? Is there any exception?

If $13,000,000 were to be raised for the use of the United States by direct taxation, how much would this state have to pay? How much would Alaska have to pay? How would this state raise the money?

Are there any people in this state who are not counted in making up the representative population?

When was the first United States census taken? How many have since been taken? When was the last taken? When will the next be taken?

How did members of congress vote under the confederation? How do they now vote?

How is Utah represented in congress? The District of Columbia?

What five states had the largest representation in the first congress? What five have now? Which two have fewer members now than in the first congress? Which three have just the same number?

Name the present officers of the House of Representatives. Are any of them from this state?

How does our House of Representatives compare with the British House of Commons in the number of members? In the length of their terms? In the age required for eligibility? What famous speech have you read in reply to one in which a certain member of the House of Commons had been alluded to contemptuously as "a young man?"

Could one who is not a voter be elected to the house? Is a woman eligible? Could the state impose other qualifications than those mentioned in the constitution?

SECTION III.—THE SENATE.[1]

Clause 1.—Composition.

The Senate of the United States shall be composed of two senators from each state,[2] *chosen by the legislature thereof,*[3] *for six years;*[4] *and each senator shall have one vote.*[5]

[1] Latin *senatus*, from *senex*, an old man. This dignified term seems a favorite, being used in many countries to designate the upper house. In other countries a term is used having the same signification.

[2] This arrangement will be remembered as the concession made by the large states to the small ones.

Had the number of senators been fixed at one from each state, equality of power among the states would still have been secured; but sickness or accident might then leave a state unrepresented. By having two, this difficulty is obviated. The two can consult about the needs of their state; and the Senate is large enough to "confer power and encourage firmness." Three from each state would bring no advantages which are not now secured, while the Senate would be unnecessarily large and expensive.

[3] This mode of election was fixed upon for two reasons: First, the senators represent the state, as such, and hence it seemed proper that they should be chosen by the body which acts for the state in its corporate capacity; second, the members of the House of Representatives being elected by the people, it was deemed advisable to elect the senators in a different way, in order that, by representing different elements, each house might act as a check upon the other. Incidentally, election by the legislature was considered good, be-

cause it would serve as a connecting link between the states and the United States.

[4]The long term gives dignity and independence to the position of senator; it gives assurance of stability in the national councils, and tends to secure for them confidence at home and respect abroad; it raises senators "above the whims and caprices of their constituents, so that they may consult their solid interests, rather than their immediate wishes."*

[5]Under the confederation each state had from two to seven members of congress, but only one vote. If the delegation was equally divided on any question, or if only one member was present, the state lost its vote.

By the present arrangement a state need not go entirely unrepresented on account of the absence of one of its senators.

Clause 2.—Classification and Vacancies.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes; The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year;[2] *so that one-third may be chosen every second year, and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.*[3]

[1]The object of this division is to secure for the Senate at all times a large proportion of experienced members. By this arrangement, too, the Senate becomes a per-

* Wright's Exposition of the Constitution of the United States.

manent body, ready at any time to convene for the consideration of treaties, for the trial of impeachments, or for confirming executive appointments.

[2] There were thirteen states represented at the first session of the Senate, which therefore contained twenty six senators. This would give nine to the first class, nine to the second, and eight to the third. When in 1791 Vermont was admitted, her two senators were placed in the third and first classes respectively, so that the one in the third class had four years to serve, while the one in the first class had six. When in 1792 Kentucky was admitted, her senators were placed in the second and third classes.

Since this first classification, each *class* holds for six years, and a senator's term expires with that of his class.

[3] Senators represent the state, and are elected by the body which acts for the state. Vacancies should, on the same principle, be filled by state authority—by the legislature if in session, by the governor if it is not.

The election by the legislature is for the unexpired term.

Clause 3.—Qualifications.

No person shall be a senator, who shall not have attained to the age of thirty years,[1] *and been nine years a citizen of the United States,*[2] *and who shall not, when elected, be an inhabitant of that state from which he shall be chosen.*[3]

[1] This was also the age for eligibility to the Roman Senate. It is five years more than the requirement for membership in the House. Greater age is required because the duties of a senator are in some respects more responsible than those of a representative.

[2] Two years of citizenship more than required of a representative. As the Senate acts with the president in making treaties, this requirement seems none too great.

[3] The propriety of this is self-evident.

Clause 4.—Presiding Officer.

The vice-president of the United States shall be president of the Senate,[1] *but shall have no vote,*[2] *unless they be equally divided.*[3]

[1] This arrangement was made for three reasons:

First. It would give the vice-president something to do.

Second. Partaking in the executive business of the Senate would give the vice-president excellent training for the duties of the presidency, in case he should be called thereto.

Third. The equality of power among the states would remain undisturbed. Had it been arranged that the Senate should choose its own presiding officer from among its members, one state might thereby gain (or lose) power in the Senate.

[2] Because he is not a member of the Senate. For this reason, also, he cannot take part in debates, nor can he appoint committees. These are elected by the Senate itself.

[3] But for his casting vote; a "dead-lock" might occur on some important question. This "might give rise to dangerous fueds, or intrigues, and create state or national agitations."

Clause 5.—Other Officers.

The Senate shall choose their other officers,[1] *and also a president pro tempore,*[2] *in the absence of the vice-president,*

or when he shall exercise the office of president of the United States.

[1] These are similar to those of the House.

[2] The president *pro tempore* is chosen from among the senators. Being a senator, he can debate and vote upon any question. He cannot, of course, give a "casting vote," because that would virtually give him two votes.

The president *pro tempore* serves during the pleasure of the Senate, or until the expiration of his senatorial term.

It is the general practice for the vice-president to vacate his chair at the beginning of the session, to permit the Senate to chose a president *pro tempore*, so that if during vacation the vice-president should become president, the Senate might not be without a presiding officer. Until recently this was quite important, for the president *pro tempore* of the Senate was next to the vice-president in the succession to the presidency. But the succession has been changed. See page 190.

Clause 6.—Impeachment.

The Senate shall have the sole power to try all impeachments.[1] *When sitting for that purpose, they shall be on oath or affirmation.*[2] *When the president of the United States is tried, the chief justice shall preside;*[3] *and no person shall be convicted without the concurrence of two-thirds of the members present.*[4] *Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the United States;*[5] *but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.*[6]

[1]For the mode of conducting impeachments, see pages 131 and 331.

To have impeachments tried by a court of law would be unwise for several reasons: In the first place, judges should be kept free from political contests, in order that they may retain the proper judicial frame of mind. In the second place, judges are appointed by the executive, who may be the one impeached. Lastly, a judge is himself subject to impeachment.

[2]To enhance the solemnity of the occasion. The British House of Lords when sitting as a high court of impeachment is not under oath. But courts usually are.

[3]The vice-president, having interest in the result, would be disqualified. The chief justice, from the dignity of his station and his great experience in law, seems the fittest person to preside on such a grave occasion.

[4]In an ordinary court, the verdict of the jury must be unanimous. To require similar agreement in this case would be to make it next to impossible ever to convict. To allow a bare majority to convict would be to place too little protection over a public officer.

[5]But for this provision abuses of power might occur in times of political excitement and strife. The question which the Senate settles is simply whether, in view of the evidence, the accused is or is not worthy to hold public office.

[6]This provision was inserted to prevent an official who had been deposed for crime from pleading the principle that "No one can be twice tried and punished for the same offense."

WRITTEN EXERCISE.

COMPARATIVE TABULATION.

POINTS CONSIDERED.	HOUSE OF R.	SENATE.
Number		
Qualifications { 1. Age, 2. Citizenship, 3. Inhabitancy,		
Election		
Term		
Vacancy		
Presiding Officer { 1. Title, 2. How chosen,		
Sole Powers		

Debate.

Resolved, That United States Senators should be elected by the people.

Pertinent Questions.

Name the present senators from this state. When were they elected? Were they elected to fill a vacancy or for a full term? How many times has each been elected?

How many more senators has New York that Rhode Island? How many members in the present Senate? How many in each class? When the next state is admitted, in what classes will its senators be placed? How will the class of each be decided?

Why not have senators chosen for life?

If one of our senators should resign today, to whom would the resignation be addressed? How would the vacancy be filled? How long would the appointee serve? Could the governor appoint himself?

How long at least must an alien live in the United States before being eligible to the Senate? Has anyone ever been refused admission, after being duly elected, on account of shortness of citizenship?

Who is now vice-president? Who is president *pro tempore* of the Senate? Why is it not correct under any circumstances to speak of the president *pro tempore* as vice-president?

Has the vice-president's vote ever helped to carry any measures of great importance?

If every senator be "present," what number of senators would it take to convict? Does the accused continue to perform his official duties during the trial? Was President Johnson impeached? Is there any appeal from the Senate's verdict? How do senators vote in cases of impeachment? How is judgment pronounced?

What punishments follow conviction on impeachment in other countries?

What is treason? Bribery? What are crimes? High crimes? Misdemeanors?

How is an impeachment trial conducted? (See appendix.)

SECTION IV.—ELECTIONS AND MEETINGS.

Clause 1.—Elections to Congress.

The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof: but the congress may at any time, by law, make or alter such regulations,[1] *except as to the place of choosing senators.*[2]

[1] Until 1842 these matters were left entirely with the several states. Congress then provided that representatives should be elected by districts of contiguous territory, equal to the number of representatives. It has since provided that elections for representatives shall be by ballot, and that the election shall be on the first Tuesday after the first Monday of November in the even numbered years.

The time and mode of electing senators are given on page 333.

[2] This would in effect be giving congress power to locate the capital of a state.

Clause 2.—Meetings.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

They have *not* by law appointed a different day.

"Annual meetings of the legislature have long been deemed, both in England and America, a great security to liberty and justice." By making provision in the constitution for annual meetings, the duty could not be evaded.

Extra sessions of congress may be called at any time by the president. There used to be three regular sessions, one beginning March 4.

The *place* of meeting is not named, because the capital had not been located, and in some cases it might be desirable to hold the session elsewhere.

Section V.—Separate Powers and Duties.

Clause 1.—Membership: Quorum.

Each house shall be the judge of the elections, returns and qualifications of its own members,[1] *and a majority of each shall constitute a quorum to do business;*[2] *but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.*[3]

[1] This means simply that each house has the power to determine who are entitled to membership in it. This has long been recognized in free countries as a right belonging to a legislative body, necessary to the maintenance of its independence and purity—even its existence. But when the parties are nearly balanced, the majority is tempted to seat its fellow-partizan.

[2] This is the number usually established as a quorum for a deliberative body. Certainly no smaller number should have a right to transact business, for that would give too much power to an active minority. And to

require more than a majority, would make it possible for a minority to prevent legislation.

[3] Under the rules no member has a right to be absent from a session unless excused or sick. Unexcused absentees, unless sick, may be arrested and brought to the capitol by the sergeant-at-arms or a special messenger.

When fewer than fifteen members are present, they adjourn.

Clause 2.—Discipline.

Each house may determine the rules of its proceedings,[1] *punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.*[2]

[1] The rules are intended to facilitate business, by preventing confusion and unnecessary delay. They are designed also to check undue haste.

The rules of each house are based upon the English parliamentary practice, as are the rules of all legislative or deliberative bodies wherever the English language is spoken. See "Manuals" of Senate and House.

[2] It seems unlikely that even in times of great excitement two-thirds of either house would favor expulsion unless it were deserved. This is, it will be observed, the number necessary to convict in case of impeachment.

Clause 3.—Publicity.

Each house shall keep a journal of its proceedings, and, from time to time, publish the same,[1] *excepting such parts as may, in their judgment, require secrecy;*[2] *and the yeas and nays*[3] *of the members of either house, shall at the desire of one-fifth of those present, be entered on the journal.*[4]

[1] This is to give publicity to the proceedings of congress, for the benefit of both legislators and constituents. This provision is a valuable one, in spite of the fact that demagogues are sometimes able thereby to gain cheap glory.

To give still further publicity to the proceedings, spectators and newspaper reporters are admitted to each house, and members may have their speeches printed and distributed.

[2] The House of Representatives rarely has a secret session. But the Senate still keeps its executive sessions secret.

[3] For methods of voting see page 344.

[4] The purpose of this provision is to make members careful how they vote, for the record is preserved. It will be noticed that the number necessary to secure the record is small.

While this provision is intended to protect the minority, by enabling them to impose responsibility upon the majority, it is open to abuse. It is sometimes used by a minority to delay unnecessarily the proper transaction of business. For a graphic account of "filibustering," see Among the Law Makers, 165–173.

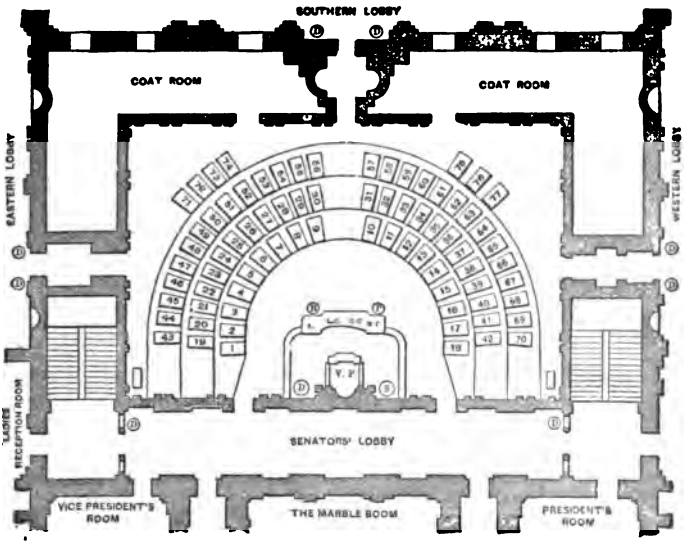
Clause 4.—Adjournment.

Neither house, during the session of congress, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

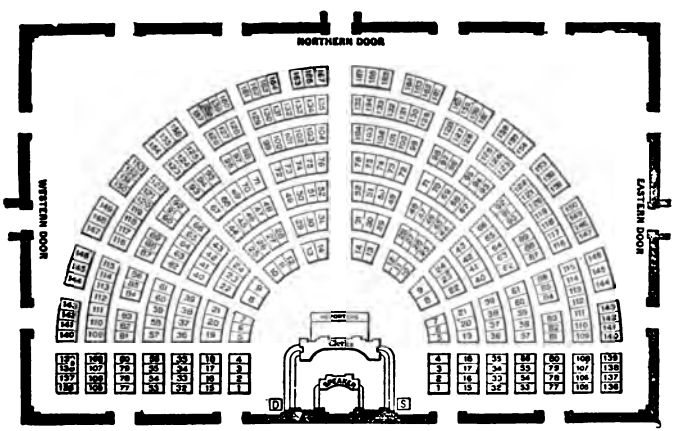
The purpose of this provision is evident.

The sessions of congress may end in any one of three ways:

1. The terms of representatives may end.
2. The houses may agree to adjourn.



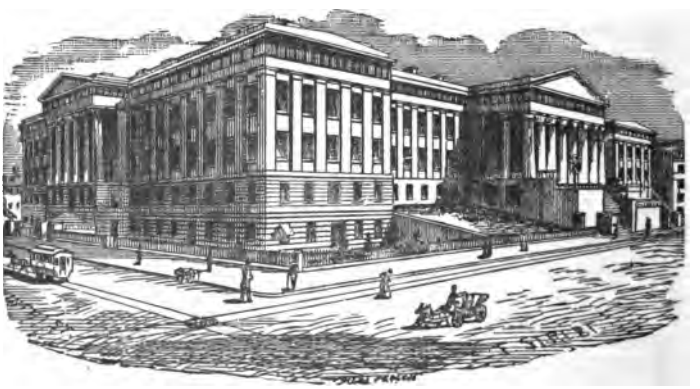
SENATE CHAMBER.



HOUSE OF REPRESENTATIVES.



STATE, WAR AND NAVY DEPARTMENTS.



PATENT OFFICE.

3. In case of disagreement between the houses as to the time of adjournment, the president may adjourn them.

SECTION VI.—MEMBERS.

Clause 1.—Privileges.

The senators and representatives shall receive a compensation for the services,[1] *to be ascertained by law,*[2] *and paid out of the treasury of the United States.*[3] *They shall in all cases except treason,*[4] *felony,*[4] *and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same;*[5] *and for any speech or debate in either house, they shall not be questioned in any other place.*[6]

[1] See discussion in connection with state legislature, p. 85.

[2] The salary of congressmen is, therefore, fixed by themselves, subject only to the approval of the president. It is now $5000 a year, and mileage. The speaker receives $8000 a year and mileage. The president *pro tempore* of the Senate receives the same while serving as president of the Senate.

[3] They are serving the United States.

[4] Defined on pages 158 and 211.

[5] So that their constituents may not for frivolous or sinister reasons be deprived of representation.

[6] That is, he cannot be sued for slander in a court of justice, but he can be checked by his house, if necessary.

The purpose of this provision is not to shield cowards in speaking ill of persons who do not deserve reproach, but to protect right-minded members in exposing

iniquity, no matter how the doers of it may be intrenched in wealth or power.

Clause 2.—Restrictions.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;[1] *and no person holding any office under the United States shall be a member of either house during his continuance in office.*[2]

[1]The obvious purpose of this provision is to remove from members of congress the temptation to create offices with large salaries for their own benefit, or to increase for a similar reason the salaries of offices already existing. It was designed also to secure congress from undue influence on the part of the president.

The wisdom of the provision has, however, been seriously questioned. "As there is a degree of depravity in mankind, which requires a certain degree of circumspection and distrust, so there are other qualities in human nature, which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher form, than any other. It might well be deemed harsh to disqualify an individual from any office, clearly required by the exigencies of the country, simply because he had done his duty. * * * The chances of receiving an appointment to a new office are not so many, or so enticing, as to bewilder many minds; and if they are, the aberrations from duty are so easily traced, that they rarely, if ever, escape the public reproaches. And if influence is to be exerted by the

executive, for improper purposes, it will be quite as easy, and its operation less seen, and less suspected, to give the stipulated patronage in another form."*

[2]This was to obviate state jealousy, to allay the fears entertained by some that the general government would obtain undue influence in the national councils.

TABULAR VIEW.

Each pupil may make out a tabulation, giving briefly the facts called for in this outline:

I. CONGRESSIONAL ELECTIONS, HOW REGULATED.
II. SESSIONS OF CONGRESS—
  1. Frequency.
  2. Time of beginning.
III. POWERS AND DUTIES OF EACH HOUSE—
  1. Membership.
  2. Quorum.
  3. Discipline.
  4. Publicity.
  5. Adjournment.
IV. MEMBERS OF CONGRESS—
  1. Privileges.
  2. Restrictions.

Debate.

Resolved, That members of the cabinet should have seats in congress *ex officio*.

Pertinent Questions.

Why not leave the power to regulate congressional elections unreservedly with the states? Where are the United States senators from this state elected?

How are United States senators elected? See appendix.

Is congress now in session? Will the next session be the long or the short one? When, within your recollection, was there an "extra session" of congress? Could the president

*Judge Story.

convene one house without the other? Which is the longest session of congress on record? Does congress meet too often?

Where does congress now meet? Is that the best place? At what different places has congress met since the adoption of the constitution?

If two persons should claim the same seat in the House of Representatives, who would decide between them? How would the contest be carried on? (See page 330.) Has there ever been a "contested" election from this state?

What number of representatives is the least that could transact business? The least number of senators? The least number of representatives that could possibly pass a bill? Of senators? What is done if at any time during the proceedings it is found that there is "no quorum present?"

Has a member ever been expelled from either house? May either house punish for disorder persons who are not members? Can either house temporarily set aside all of its rules?

Did you ever see a copy of the Congressional Globe? If congress be now in session, make a weekly report of its proceedings. How could you see congress in session? Could you be a spectator at a committee meeting? How could you witness an "executive session" of the Senate?

Can a member be punished for an offense committed before he was elected?

How is voting usually done in a deliberative assembly? How in congress? How are territories represented in congress?

Distinguish between the "capital" and the "capitol" of the United States. Who has power to locate the capital of the United States?

Has the salary of congressmen ever been more than $5000 a year? How were congressmen paid under the confederation?

What is meant by the House resolving itself into a *committee of the whole?*

When does the freedom from arrest of a member of congress begin? When does it end? Could a summons be served upon him during that time?

What is slander? Libel? Is a member of congress liable for the publication of his speech in the Congressional Globe? Would he be responsible if he should have it published in any other than the official way?

Can a member of congress resign to accept an office already in existence, and whose emoluments have not been increased during his term? Give examples. If a United States officer be elected to congress, how long can he retain his office? Could a member of congress be appointed to a *military* office created during his term? Can a member be appointed *after his term is out* to an office created during his term?

Is a member of congress an officer of the United States?

Section VII.—Law Making.

Clause 1.—Revenue Bills.

All bills for raising revenue[1] *shall originate in the House of Representatives;*[2] *but the Senate may propose or concur with amendments, as on other bills.*[3]

[1] That is, bills in relation to the levying of taxes or for bringing money into the treasury in any other way.

[2] Because the representatives are nearer to the *people*, who must pay the taxes, and can therefore be more readily held to account.

[3] Such bills in England originate in the House of Commons, and the House of Lords has no power of amendment.

The purpose of giving the Senate power to amend is to preserve the due influence of the small states in this important matter.

Clause 2.—Mode of Making Laws.

Every bill which shall have passed the House of Representatives and the Senate,[1] *shall, before it becomes a law, be presented to the president of the United States;*[2] *if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be considered, and, if approved by two-thirds of that house, it shall become a law.*[3] *But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall*

be entered on the journal of each house, respectively.[4] *If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it,*[5] *unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.*[6]

[1] Or the Senate and House of Representatives, since any bills except those for raising revenue may originate in either house.

[2] The two great purposes of giving the president a negative upon legislative acts, are to protect the proper authority of the executive from the encroachments of the congress, and to interpose a stay upon hasty legislation.

[3] The veto of the Roman Tribune was final, as is that of every European sovereign today. *But no British king or queen has vetoed an act of Parliament in the last hundred and eighty years.*

Our president's veto is not meant to be final. Its purpose is simply to call for a review of the matter.

[4] To secure a permanent record for future reference. The influence of this is to render members careful how they vote.

[5] This gives due time for consideration, but prevents the president's killing a bill by ignoring or neglecting it.

[6] Thus congress (which has the very human failing of "putting off" or postponing) cannot break down the veto power of the president, by pouring an avalanche of bills upon him within the last few days of the session.

But the president can easily kill any bill which he does not like, if it is presented within ten days of the adjournment of congress, by simply keeping it. This is called "pocketing" a bill, or "the pocket veto."

If. however, the president abuses his power he can be removed by impeachment.

Clause 3.—Joint Resolutions.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

The purpose of this provision is to prevent congress from passing a law under some other name.

The resolution to adjourn is excepted, because, as we have seen, the time for adjournment is generally a matter of agreement between the houses.

A resolution passed by the two houses, but not intended to have the force of law, such as an agreement to do something, is called a concurrent resolution, and does not require the president's signature.

Pertinent Questions.

What is a "bill?" What is meant by entering the objections "at large?" Why is there no committee of ways and means in the Senate?

How many members in each house does it take for the first passage of a bill? How many after the president's veto? Does the expression two-thirds refer to the entire number in a house, or to the number voting?

State three ways in which a bill may become a law. Five ways in which it may fail.

During what time has the president the equivalent of an absolute veto?

Does a resolution merely expressing an *opinion* of either or both houses need the president's signature? Does a resolution proposing an amendment to the constitution?

Is the president bound to enforce a law passed over his veto?

A Summary.

"We have now completed the review of the structure and organization of the legislative department; and it has been shown that it is admirably adapted for a wholesome and upright exercise of the powers confided to it. All the checks which human ingenuity has been able to devise, or at least all which, with reference to our habits, our institutions, and our diversities of local interests, to give perfect operation to the machinery, to adjust its movements, to prevent its eccentricities, and to balance its forces: all these have been introduced, with singular skill, ingenuity and wisdom, into the arrangements. Yet, after all, the fabric may fall; for the work of man is perishable. Nay, it must fall, if there be not that vital spirit in the people, which alone can nourish, sustain and direct all its movements. If ever the day shall arrive, in which the best talents and the best virtues, shall be driven from office by intrigue or corruption, by the denunciations of the press or by the persecution of party factions, legislation will cease to be national. It will be wise by accident, and bad by system."*

Review.

Compare the organization of congress under the constitution with that of congress under the confederation. Show the superiority of our present organization. Specify some of the "checks" referred to by Judge Story.

Read Woodrow Wilson's Congressional Government, pp. 40, 41, 52, 219, 228, 283-5, 311. Also, Among the Lawmakers, Chapter 33.

*Story's Exposition of the Constitution of the United States.

CHAPTER XXII.

SECTION VIII.—POWERS VESTED IN CONGRESS.

Clause 1.—Taxation.

Congress shall have power:

To lay and collect taxes,[1] *duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States;*[2] *but all duties, imposts and excises shall be uniform throughout the United States.*[3]

For discussion of methods of taxation, see page 316.

[1] The want of power in congress to impose taxes was, perhaps, the greatest defect of the articles of confederation; therefore in the constitution this was the first power granted to congress.

[2] As usually interpreted, the phrase beginning, "to pay the debts," is intended to state the purposes for which taxes may be levied. Otherwise the power to tax would be unlimited.

[3] This is to prevent legislation in favor of any state or section, as against other states or sections.

Clause 2.—Borrowing.

To borrow money on the credit of the United States.

It should not be necessary, ordinarily, for congress to exercise this power. But in times of war the regular sources of income may not be sufficient, hence the necessity of this power to provide for extraordinary expenses. It is one of the prerogatives of sovereignty; it is indispensable to the existence of a nation.

For more about national borrowing, see page 317.

Clause 3.—Regulation of Commerce.

To regulate commerce[1] *with foreign nations, and among the several states,*[2] *and with the Indian tribes.*[3]

[1] The power to regulate commerce implies the power to prescribe rules for traffic and navigation, and to do such things as are necessary to render them safe. It has been interpreted to cover, among other things, the imposition of duties, the designation of ports of entry, the removal of obstructions in bays and rivers, the establishment and maintenance of buoys and light-houses, and legislation governing pilotage, salvage from wrecks, maritime insurance, and the privileges of American and foreign ships.

[2] The power to regulate commerce with foreign nations should go hand in hand with that of regulating commerce among the states. This power had, under the confederation, been in the hands of the several states. Their jealousies and rivalries had led to retaliatory measures upon each other. This condition of affairs was encouraged by other nations, because they profited by it. At the time of the adoption of the constitution, business was terribly depressed, and the bitterness of feeling among the states would probably soon have disrupted the Union. Therefore, "to insure domestic tranquility," and "to promote the general welfare," the power to regulate commerce was delegated to the general government.

[3] This control is exercised even when the Indians live within the boundaries of a state.

By placing the power to regulate commerce with Indians in the hands of the general government it was hoped that uniformity of regulations and the strength of the government would secure peace and safety to the frontier states.

Clause 4.—Naturalization and Bankruptcy.

To establish a uniform rule of naturalization,[1] *and uniform laws on the subject of bankruptcies,*[2] *throughout the United States.*

[1] Naturalization is the process by which an alien becomes a citizen. The mode is given on page 319.

[2] A bankrupt is one who has been declared by a court to be owing more than he can pay.

The purposes of a bankrupt law are:

1. To secure an equitable distribution of all the debtor's property among the creditors.

2. To secure to the debtor a complete discharge from the indebtedness.

Clause 5.— Coinage and Measures.

To coin money,[1] *regulate the value thereof,*[2] *and of foreign coin,*[3] *and fix the standard of weights and measures.*[4]

[1] This is another "sovereign power," and cannot be exercised by states, counties or cities. Coinage by the United States secures uniformity in value, and thereby facilitates business.

To "coin money" is simply to stamp upon a precious metal the value of the given piece.* For convenience in business transactions, these are coined of certain sizes. To discourage the mutilation of coins for sinister purposes, they are "milled" on the edges, and the stamp covers each face so that the metal could hardly be cut off without the coin showing defacement.

[2] The value is shown by the stamp.

[3] Otherwise, foreign coin would become an article of

*When metals were first used as money, they were weighed and their purity was determined by testing. This invited fraud.

commerce, and it would be more difficult to regulate the value of domestic coin.

[4] This power congress has never exercised. But see Johnson's Cyclopedia, article *Gallon*.

Clause 6.—Punishment of Counterfeiting.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

This is "an indispensable appendage" of the power granted in the preceding clause, that of coining money.

To discourage counterfeiting, the "securities" are engraved with rare skill and upon peculiar paper. The penalties for counterfeiting are printed on the back of some of the "greenbacks."

Under "securities" are included bonds, coupons, national currency, "greenbacks," revenue and postage stamps, and all other representatives of value issued under any act of congress.

Clause 7.—Postoffices.

To establish postoffices[1] *and post roads.*[2]

[1] The beneficence and usefulness of the postoffice every one can appreciate; it ministers to the comfort of all, rich and poor.

Placing the management of the postoffices with the general government secures greater efficiency and economy than would be possible if it were vested in the states.

[2] Congress generally uses roads already in existence. These are regularly selected, however, and declared to be post roads before they are used as such. The "road" may be a waterway.

But under authority of this clause congress has established some post roads. The principal highway thus

established was the Cumberland road from the Potomac to the Ohio. The Union Pacific and Central Pacific Railways were built under the authority and with the assistance of the United States as post and military roads.

Clause 8.—Copyrights and Patents.

To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

No one denies that an author or inventor is entitled to a fair reward for what he has done. But if every one were at liberty to print the book or to make the article invented, the due reward might not be received.

The wisdom of granting this power to the general government becomes apparent when we consider how poorly the end might be secured if the matter were left to the states. A person might secure a patent in one state and be entirely unprotected in the rest.

For further information upon this subject, see pages 318–19.

Clause 9.—United States Courts.

To constitute tribunals inferior to the Supreme Court.

The Supreme Court is established by the constitution. But the number of judges is fixed by congress.

Congress has thus far established,

1. United States Circuit Courts of Appeal.
2. United States Circuit Courts, equal in number to the judges of the United States Supreme Court.
3. United States District Courts, from one to three in each state. See pages 308–9.
4. A United States Court of Claims, to hear claims

against the government. Such claims were formerly examined by congress.

Although not United States Courts, the following may also be mentioned here, because they were established under authority of this clause:

1. The Supreme Court of the District of Columbia.
2. A Supreme Court and District Courts in each territory.

"Constituting" these courts involves establishing them, designating the number, appointment, and salaries of the judges, and the powers of each court. The term of United States judges is "during good behavior." This is fixed by the constitution (Art. III., section 1). The term of a territorial judge is four years.

Clause 10.—Crimes at Sea.

To define and punish piracies[1] *and felonies*[2] *committed on the high seas,*[3] *and offenses against the law of nations.*[4]

[1] Piracy is robbery at sea, performed not by an individual but by a ship's crew. Pirates are outlaws, and may be put to death by any nation capturing them.

[2] A felony is any crime punishable by death or state prison. Felony covers murder, arson, larceny, burglary, etc. But congress may define piracy and felony to cover more or fewer crimes.

[3] The "high seas" are the waters of the ocean beyond low water mark. Low water mark is the limit of jurisdiction of a state, but the jurisdiction of the United States extends three miles further into the ocean, and includes all bays and gulfs.

Beyond the three-mile limit, the ocean is "common ground," belonging not to one nation but to all. Each nation has jurisdiction, however, over its merchant

ships on the high seas, but not in a foreign port, and over its war ships everywhere.

[4]For an outline of the Law of Nations, see page 346.

Cases arising under this clause have been placed in the jurisdiction of the United States District Courts.

Clause 11.—Declaration of War.

To declare war,[1] *grant letters of marque and reprisal,*[2] *and make rules concerning captures on land and water.*[3]

[1]A declaration of war is a solemn notice to the world that hostilities actually exist or are about to commence.

The power to declare war is one of the attributes of sovereignty. If this power were in the hands of the several states, any one of them could at any time involve the whole country in the calamities of war, against the wishes of all the other states. With all their fear of the general government, shown in the character of the articles of confederation, the states in framing that instrument saw the necessity of vesting this power in the general government.

In monarchies, the power to declare war is generally vested in the executive. But in a republic, it would be dangerous to the interests and even the liberties of the people, to entrust this power to the president.

To put the thought in other words, the power to declare war belongs to the sovereign: in this country, the people are sovereign, therefore the power to declare war belongs to the people, and they act through their representative body, congress. See pages 351–4.

[2]These are commissions granted to private persons usually in time of war, authorizing the bearer to pass beyond the boundaries of his own country for the purpose of seizing the property of an enemy.

Sometimes such a letter is granted in times of peace, "to redress a grievance to a private citizen, which the offending nation refuses to redress." By authority of such a commission, the injured individual may seize property to the value of his injury from the subjects of the nation so refusing. But this practice is properly becoming rare.

[3] Vessels acting under letters of marque and reprisal are called *privateers*, and the captured vessels are called *prizes*.

Prizes are usually sold under authority of the United States District Court, and the proceeds divided among the crew of the ship making the capture.

The proceeds of captures on land belong to the government.

Clause 12.—Maintenance of Armies.

To raise and support armies;[1] *but no appropriation of money to that use shall be for a longer term than two years.*[2]

[1] This is another sovereign power, and would seem the necessary accompaniment of the power to declare war. Under the confederation, however, congress could only designate the quota of men which each state ought to raise, and the actual enlistment of men was done by the several states. Their experience in carrying on the Revolutionary War on that basis satisfied them that efficiency and economy would both be secured by vesting this power in the general government.

[2] But to prevent misuse of the power, this proviso was inserted. As representatives are elected every two years, the people can promptly check any attempt to maintain an unnecessarily large army in times of peace.

A standing army is dangerous to liberty, because it is commanded by the executive, to whom it yields unquestioning obedience. Armies obey *commands*, while citizens comply with *laws*. And thus a large standing army creates a *caste*, out of sympathy with the lives of citizens. More than one republic has been overthrown by a successful military leader, supported by a devoted army.

As a matter of fact, congress makes the appropriation annually.

Clause 13.—The Navy.

To provide and maintain a navy.

The navy is necessary to protect fisheries and commerce. And in times of war the navy is needed to protect our sea coast, to transport soldiers, to cripple the enemy's resources, and to render blockades effectual.

It will be noticed that there is no limitation upon appropriations for the navy. This is for two general reasons: First, there is nothing to fear from a navy. "No nation was ever deprived of its liberty by its navy." Second, it takes time to prepare a navy, and it should therefore be kept at all times in a state of efficiency.

For further information about the army and navy, see pages 305 and 309.

Clause 14.—Army and Navy Regulations.

To make rules for the government and regulation of the land and naval forces.

This is an incident to the preceding powers.

The army and navy regulations prescribe duties of officers, soldiers and seamen, and provide for the or-

ganization and management of courts martial. Disobedience to orders and insubordination are crimes in a soldier or sailor; and refusal to pay just debts or any other conduct "unbecoming to a gentleman," are punishable offenses in an officer. Thus it is seen that military law takes cognizance of offenses not usually noticed by civil law.

Clause 15.—The Militia.

To provide for calling forth the militia[1] *to execute the laws of the Union, suppress insurrections and repel invasions.*[2]

[1] Congress has declared the militia to be "all citizens and those who have declared their intention to become such, between the ages of eighteen and forty-five." These constitute what is called the unorganized militia. The military companies and regiments formed by authority of United States and state laws constitute the organized militia.

One of two policies we must pursue, either to maintain a large standing army or to depend upon the citizen-soldiers to meet emergencies. For several reasons, we prefer the latter. That the citizen-soldier may be depended upon has been demonstrated on many a battlefield.

[2] The clause specifies the purposes for which the militia may be called out. These are three in number. Each state may for similar purposes call forth its own militia.

Under the laws of congress, the president is authorized in certain emergencies to issue the call. This he directs to the governors of states, and those called on are bound to furnish the troops required.

On three occasions only have the militia been called

out under this clause: In the Whisky Rebellion of 1794, to enforce the laws; in the war of 1812, to repel invasion; and in the Civil War, to supress insurrection.

Clause 16.—Organization of the Militia.

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States,[1] *reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress.*[2]

[1] Thus only can the uniformity so essential to efficiency be secured.

[2] This is designed as a proper recognition of the right of each state to have militia companies and to control them, subject only to the necessary limitation mentioned.

The militia of a state consists of one or more regiments, with the proper regimental and company officers appointed by state authority. When these are mustered into the service of the United States and are formed into brigades and divisions, the appointment of the general officers is vested in the president.

Clause 17.—Exclusive Legislation.

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by the cession of particular states, and the acceptance of congress, become the seat of government of the United States,[1] *and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings.*[2]

[1]This refers to the territory afterwards selected, and now known as the District of Columbia.

The purpose of this provision is to free the general government from having to depend upon the protection of any state, and to enable it to secure the public buildings and archives from injury and itself from insult.*

Congress governed the District of Columbia directly until 1871, when for three years the experiment was tried of governing it as a territory. The territorial government in that time ran in debt over $20,000,000 for "public improvements," and congress abolished it.

The supervision of the district is now in the hands of three commissioners, appointed by the president, but controlled by congressional legislation.

[2]The propriety of the general government having exclusive authority over such places is too obvious to need comment.

Crimes committed there are tried in the United States Courts.

The state in making the cession usually reserves the right to serve civil and criminal writs upon persons found within the ceded territory, in order that such places may not become asylums for fugitives from justice.

Clause 18.—Implied Powers.

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

This clause does not grant any new power. "It is merely a declaration, to remove all uncertainty, that

* The Continental Congress, while the capital was at Philadelphia, had to adjourn to Princeton to escape the violence of some dissatisfied soldiers. See Fisk's Critical Period of American History, page 112.

every power is to be so interpreted, as to include suitable means to carry it into execution."*

It will be noticed that the powers of congress are enumerated, not defined in the constitution; and the above clause has given rise to the doctrine of "implied powers," the basis of many political controversies.

Following are samples of "implied powers:"

By clause 2, congress has power "to borrow money on the credit of the United States." Implied in this, is the power to issue securities or evidences of debt, such as treasury notes. "To increase the credit of the United States, congress may make such evidences of debt a legal tender for debts, public and private."†

Congress has power (clause 11) "to declare war." By implication it has power to prosecute the war "by all the legitimate methods known to international law." To that end, it may confiscate the property of public enemies, foreign or domestic; it may confiscate, therefore, their slaves. See Emancipation Proclamation, page 362. For a hint of what congress *might* do, see Among the Lawmakers, p. 296.

Pertinent Questions.

1. In what two ways may the first part of the first clause be interpreted? In what ways does the government levy taxes? How much of the money paid to the local treasurer goes to the United States? Have you ever paid a U. S. tax? Did you ever buy a pound of nails? Do you remember the "stamps" that used to be on match boxes? How came they there? Was that a direct or an indirect tax? A man who pays for a glass of beer or whisky pays a U. S. tax. How? Every time a person buys a cigar he pays a U. S. tax. If there be a cigar factory within reach, talk with the proprietor about this matter. Look at a cigar box and a beer keg to find some evidence of the tax paid. Name some things which were taxed a few years ago but are not now. What is a custom house? A port of entry? What are they for? Name the port of entry nearest to you. What is the present income of the United States from

*Story. †Lalor's Cylopedia of Political Science.

all kinds of taxation? What is done with the money? Look up the derivation of the word *tariff*.

2. *How* does the government "borrow?" Does the government owe you any money? If you have a "greenback," read its face. If the government is unable or unwilling to pay a creditor, what can he do? What *is* the "credit" of the United States? How much does the United States government owe, and in what form is the debt? How came it to be so large? Is the government paying it up? How much has been paid this fiscal year? What rate of interest has the government to pay? What is the current rate for private borrowers? How is it that the government can borrow at so low a rate? What is a "bond-call," and how is it made?

3. Has congress power to *prohibit* commerce with one or more foreign nations? Has it power to regulate commerce carried on wholly within a state? Can you buy lands from the Indians? Can the state? Has congress imposed a tariff to be paid in going from one state to another? What has requiring the engineer of a steamboat to secure a government license to do with "regulating commerce?" When did congress under this clause prohibit American merchant ships from leaving port? Under what provision of the constitution does congress impose restrictions upon the railroads? Does congress exercise any control over railroads lying wholly within one state? Why?

4. How can an alien become naturalized? Who are citizens of the United States? (See Amend. XIV.) Is a child of American parents, born during a temporary absence from this country, a citizen or an alien? An alien living in this country has children born here; are they citizens or aliens? A child is born on the ocean, while its parents are on the way here to found a new home and intending to become citizens; what is the status of the child? Are you a citizen? How may female aliens become citizens? Why should they desire to do so? How did citizens of Texas at the time of its admission become citizens of the United States?

What is an insolvent law? Has this state such a law? Can this state pass a bankrupt law? Can any state? Why? Is there any United States bankrupt law? Has congress ever passed such a law?

5. What is money? Is a bank bill money? Read one and see whether it pretends to be. What gold coins have you ever seen? What others have you heard of? What silver coins have you ever seen? What others have you heard of? What other coins have you seen or heard of? How are coins made? Where is the United States mint located? Where are the branch mints? How much value does the stamp of the government add to a piece of gold? Is there a dollar's worth of silver in a silver dollar? Why? (See Jevons' Money and the Mechanism of Exchange.)

How are national banks organized? (See appendix.) Under what constitutional provision does congress exercise this power? Are any banks organized under state authority? What is meant by "legal tender?"

Are foreign coins "legal tender" at the rate fixed by congress? For the value of the principal foreign coins, see appendix. Can congress punish counterfeiting of these coins? Is there a standard pound in this state? A standard bushel?

6. Look on the back of a greenback for the law about counterfeiting. Is there any law against *passing* counterfeits?

7. When was our postoffice department established? Who was placed at the head of it? Who is the postmaster general? What is meant by "presidential offices" in speaking of postoffices? What are the present rates of postage in the United States? How much does it cost to send a letter to England? To Prussia? To Australia? When were postage stamps introduced? Stamped envelopes? Postal cards? In what four ways may money be sent by mail? Explain the workings and advantages of each method. What is the dead letter office?

What is meant by the franking privilege? Find the rates of postage in the United States, in 1795, 1815, 1845, 1850, 1860. Does the power to establish post roads, authorize congress to make internal improvements? What is meant by "star route?"

8. Is this book copyrighted? Name some book that is not copyrighted. What things besides books are copyrighted? Can a copyright be sold? How is a copyright secured? (See page 318.) How long do copyrights continue in force? How may they be renewed? Must new editions be copyrighted?

What is a patent? How are "letters patent" secured? (See page 320.) How may an inventor secure time to perfect his invention? How can a patent be sold? May a person, not the patentee, make a patented article for his own use? Name ten important patented inventions. What is the purpose of the government in granting patents? Is this always secured? How does the expiration of a patent affect the price of an invention? If a person invents an article which proves helpful to millions of people, is it unfair that he should make a fortune out of it?

9. By what authority does congress organize courts in the territories? Could congress establish more than *one* Supreme Court? Name the United States District Judge for this state. The United States Attorney. The United States Marshal. If you had a claim against the United States how would you get your money?

10. Who may punish a pirate? Can a pirate claim the protection of the American flag?

11. Has the United States ever formally declared war? May war begin without a formal declaration? Does the president act with congress in declaring war, as in case of a law?

What protection is afforded by letters of marque and reprisal?

Name some well known privateers. Tell about the "Alabama Claims," and their settlement. Upon what principle of international law did the decision hinge? See page 353.

12. With what other power is that of *raising an army* intimately connected? That of maintaining an army? How large is the United States army at the present time? Give arguments in favor of the *militia* system, as against that of a large standing army. What circumstances favor us in adopting the militia system? What country in Europe is most like us in this respect? Why is this possible in that country? Where are most of the officers of the U. S. army educated? How are appointments to the institution made? By what authority has congress established it? What is a military "draft?"

Who has charge of this department of the government? Name the four highest officers in the U. S. army. For the organization of the army, see page 309.

13. Name the present secretary of the navy; the two highest naval officers. Where are most of the naval officers educated? How does the navy of the United States compare with the navies of other great powers? Why? For organization of navy, see appendix.

14. What is the difference between military law and martial law? How are these "rules" made known? What is the source of authority in a military court? In a civil court? Is there any liability of a conflict of jurisdiction between these courts? When was flogging abolished in the army? In the navy? What punishments are inflicted by courts martial?

15. Distinguish between the militia and the regular army. Between militia and "volunteers."

16. How many regiments of organized militia in this state? Name the principal regimental officers. By whose authority were these appointed? Is there any "company" near you? Have you seen them drilling? Who prescribed the "tactics?"

17. Over what portions of this state has congress this "exclusive jurisdiction?" Give a brief sketch of the District of Columbia. When and by whom was slavery abolished therein?

18. Why should this be spoken of as "the sweeping clause?"

Debate.

Resolved, That free trade should be the ultimate policy for any country.

References.

PROTECTION.—Articles in Cyclopedias; Casey's Social Science, McKean's Abridgment; Greely's Political Economy; Byle's Sophisms of Free Trade; Elder's Questions of the Day; Bowen's Political Economy.

FREE TRADE.—Articles in Cyclopedias; Grosvenor's Does Protection Protect? Sumner's History of Protection in U. S.; Fawcett's Free Trade and Protection; David A. Wells' Essays; Pamphlets published by the Free Trade Club, N. Y.

A very fair statement of both views may be found in Chapin's Political Economy.

SECTION IX.—PROHIBITIONS ON CONGRESS.

Clause 1.—The Slave Trade.

The migration or importation of such persons[1] *as any of the states now existing shall think proper to admit, shall not be prohibited by congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation,*[2] *not exceeding ten dollars for each person.*[1]

[1]The framers of the constitution disliked to tarnish the instrument by using the word slave, and adopted this euphemism.

At that time there was a general desire, not ripened into a purpose however, that slavery might soon cease to exist in the United States.

This clause, which permitted the continuance for a time of the slave *trade*, was a concession to North Carolina, South Carolina and Georgia. The other states had already prohibited the slave trade, and it was hoped by all that before the time specified the abolition of slavery would be gradually accomplished.

[2]No such tax was imposed.

This provision is now obsolete, and is of interest only historically. For further discussion of slavery, see page 343.

Clause 2.—The Writ of Habeas Corpus.

The privileges of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

"It has been judicially decided that the right to suspend the privilege of the writ rests in congress, but that congress may by act give the power to the president."*

The privilege of the writ never was suspended by the general government until 1861. Questionable suspensions of the writ covering a very limited territory, had been made in two or three instances by generals.

So valuable as a "bulwark of liberty" is this writ considered to be, that the courts of the United States have decided that, even in time of war, the privilege of the writ can be suspended only in that part of the country actually invaded, or in such a state of war as to obstruct the action of the federal courts.

Clause 3.—Certain Laws Forbidden.

No bill of attainder[1] *or ex post facto law*[2] *shall be passed.*

[1] "A bill of attainder was a legislative conviction for alleged crime, with judgment of death. Those legislative convictions which imposed punishments less than that of death were called bills of pains and penalties."† The term is here used in its generic sense, so as to include bills of pains and penalties.

The great objection to *bills* of attainder is that they are purely *judicial* acts performed by a *legislative* body. A legislative body may and should try a *political* offense, and render a verdict as to the worthiness of

* Lalor's Cyclopedia of Political Economy.
† Cooley's Constitutional Limitations.

the accused to hold public office. But to try him when conviction would deprive him of any of his personal rights—life, liberty, or property,—should be the work of a duly organized *judicial* body.

This provision, then is directed not so much against the penalty (for limitations upon penalties are found elsewhere in the constitution,) as against the mode of trial. Or we may say that it is intended to prevent conviction *without* a trial; for in previous times legislative bodies had frequently punished political enemies without even the form of a trial, or without giving them an opportunity to be heard in their own defense, by passing against them bills of attainder.

[2]An *ex post facto* law is, literally, one which acts back upon a deed previously performed. But as here intended, it means a law making *worse* such an act, either by declaring criminal that which was not so regarded in law when committed, or by increasing the penalty and applying it to the act previously performed.

But a law may be passed making *better*, in a sense, some previous act. That is, an unforseen but imperative necessity may call for the doing of something which is not unlawful, but which needs, yet has not received, the sanction of law. This act may *afterwards* be *legalized* by the legislature.

The things forbidden by this clause would, if permitted, render unsafe all those personal rights for the security of which the constitution was framed and the government founded.

Clause 4.—Direct Taxes.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

This clause emphasizes the first sentence of clause three, section two, of this article. It was *intended* to prevent the taxation of the *two-fifths of the slaves* not enumerated for representation, and was evidently inserted as a concession to the slave states. But the abolition of slavery takes from the clause all force except that mentioned at the beginning of this paragraph.

No capitation tax has ever been levied by the general government.

Clause 5.—Duties on Exports.

No tax or duty shall be laid on articles exported from any state.

This was designed to prevent discrimination against any state or section.

Though the question has never been judicially determined, it is generally understood that since anything exported must be exported from some state, this clause prohibits *all* export duties.

Clause 6.—Commercial Restrictions.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state, be obliged to enter, clear or pay duties in another.

This provision has the same object in view as that which requires duties to be uniform—the impartial treatment of the several states. It shows, too, the fear felt by many that the general government *might* show partiality.

The latter part of the clause virtually establishes free trade among the states.

Clause 7.—Care of Public Funds.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

There are two great purposes to be subserved by this provision: First, to impose upon those handling the money a feeling of responsibility, and thus to increase the probability of carefulness; second, to prevent the use of public funds for any purpose except those authorized by the representatives of the people. This is in harmony with the provision which gives to congress the power to raise money.

Incidentally, too, this is a protector of our liberties. Those who have charge of the public purse are appointees of the president. But for this provision he might, as rulers in arbitrary governments do, use the public treasury to accomplish his own private purposes; and one of these purposes might be the overthrow of our liberties. This thought undoubtedly was a prominent one in the minds of the framers of the constitution.

The account of receipts and expenditures is reported to congress annually by the secretary of the treasury.

Clause 8.—Titles of Nobility.

No title of nobility shall be granted by the United States;[1] *and no person holding an office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.*[2]

[1]This is in harmony with the principle "All men are created equal." And, while in society there are classes

and grades based upon learning, wealth, etc., we intend that all shall be equal before the law, that there shall be no "privileged classes."

[2]The purpose of this is evident—to free public officers from blandishments, which are many times the precursors of temptations to treason.

An amendment to the constitution was proposed in 1811, prohibiting any citizen from receiving any kind of office or present from a foreign power, but it was not ratified.

Section X.—Prohibitions on the States.

Clause 1.—Unconditional Prohibitions.

No state shall enter into any treaty, alliance, or confederation;[1] *grant letters of marque and reprisal;*[2] *coin money;*[3] *emit bills of credit;*[4] *make anything but gold and silver coin a tender in payment of debts;*[5] *pass any bill of attainder,*[6] *ex post facto law,*[6] *or law impairing the obligation of contracts,*[7] *or grant any title of nobility.*[8]

[1]Otherwise the intrigues of foreign nations would soon break up the Union.

[2]Had the states this power, it would be possible for any one of them to involve the whole country in war.

[3]This provision secures the uniformity and reliability of our coinage.

[4]A state may borrow money and may issue bonds for the purpose. But these bonds are not bills of credit, because they are not designed to circulate as money.

The evils of state issuance of bills of credit we cannot appreciate, but the framers of the constitution had experienced them, and based this provision on that bitter experience.

[5]This has the same general purpose as the preceding. It will be observed that there is no such prohibition on the United States, and the implied power to emit bills of credit and to make things other than gold and silver legal tender, has been exercised.

[6]Forbidden to the states for the same reason that they are forbidden to the United States.

[7]The purpose is to preserve the legal obligation of contracts. "The spirit of the provision is this: A contract which is legally binding upon the parties at the time and place it is entered into by them, shall remain so, any law of the states to the contrary notwithstanding."*

Under this provision many questions have arisen. One of them is this: May a state pass insolvent or bankrupt laws? It has been decided by the United States Supreme Court that a state may pass insolvent laws upon *future* contracts, but not upon *past* contracts. But no state can pass a bankrupt law.

Clause 2.— Conditional Prohibitions.

No state shall, without the consent of the congress,[1] *lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws;*[2] *and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States;*[3] *and all such laws shall be subject to the revision of the congress.*[4] *No state shall, without the consent of congress, lay any duty of tonnage,*[5] *keep troops or ships of war in time of peace,*[6] *enter into any agreement or compact with another state,*[7] *or with a foreign power,*[7] *or engage in war, unless actually invaded, or in such imminent danger as not to admit of delay.*[8]

*Tiffany quoted by Andrews.

[1]By implication, congress may give the states permission to do the things enumerated in this paragraph. But it never has.

[2]The inspection laws are designed to secure to consumers quality and quantity in commodities purchased. Thus, in some states there is a dairy commissioner whose duty it is to see that no substance is offered for sale as butter which is not butter. And officers may be appointed to inspect the weights and measures in stores. Such officers may be provided for without the consent of congress. But no fees can be charged for this service more than are necessary to pay the officers. In other words, the offices cannot be made a source of revenue to the state.

[3]This is to free the states from any temptation to use the power which might be conferred under this clause for their own gain, to the detriment of a sister state.

[4]This secures to congress the control of the matter.

[5]That is, a tax upon the carrying power of a ship. This is in harmony with the provision which forbids the states to levy duties on imports.

[6]This prohibits the keeping of a standing army, but each state may have its organized militia.

[7]In the preceding clause, the states were forbidden to enter into treaties, etc.,—that is, into *political* compacts; and the prohibition was absolute. Here they are prohibited from entering into *business* compacts, unless permitted by congress.

[8]For a state to engage in war would be to embroil the country in war. But the militia might be sent to repel invasion. They would, however, be defending not the state simply, but also the United States.

"We have thus passed through the positive prohibitions introduced upon the powers of the states. It

will be observed that they divide themselves into two classes: those which are political in their character, as an exercise of sovereignty, and those which more especially regard the private rights of individuals. In the latter the prohibition is absolute and universal. In the former it is sometimes absolute and sometimes subjected to the consent of congress. It will at once be perceived how full of difficulty and delicacy the task was, to reconcile the jealous tenacity of the states over their own sovereignty, with the permanent security of the national government, and the inviolability of private rights. The task has been accomplished with eminent success."*

Pertinent Questions.

When was slavery introduced into the United States? Give an account of the steps taken to abolish it.

What is the use of the writ of habeas corpus? If a sane person were confined in an asylum, how could he be got out? Could a person who had taken religious vows imposing seclusion from the world, be released by means of this writ? Show the necessity of power to suspend the writ in cases of rebellion or invasion.

Could the thing forbidden in a *bill* of attainder be done by a court? Give an example of an *ex post facto* law.

What is meant by "entering" and "clearing" a port?

How could the president get hold of any United States money other than that received in payment of his salary?

Could you receive a present from a foreign government? Name any American who has received a title or a present from a foreign government. Must a titled foreigner renounce his title on becoming an American citizen?

What are "greenbacks?" Did you ever see a state "greenback?" When do you expect to see one?

What is a contract? Could a legislature pass a law doing away with imprisonment for debt? What argument did Daniel Webster make in the famous Dartmouth College Case?

Name the various state inspectors in this state. How are they paid? May a state impose taxes to defray its own expenses? What prohibitions apply to both the general and the state governments. Arrange all the prohibitions in tabular form, classifying as indicated by Judge Story in the paragraph quoted.

* Story.

CHAPTER XXIII.

ARTICLE II.—The Executive Department.

It seems to us a matter of course that after the laws are made there should be some person or persons whose duty it should be to carry them into execution. But it will be remembered that under the confederation there was no executive department. The colonists had suffered from kingly rule, and in forming their first government after independence, they naturally avoided anything having the appearance of kingliness. After trying their experiment for some years, however, their "sober second sense" told them that the executive department is a necessity, and when the convention assembled to "revise the articles of confederation" (as they at first intended to do) one of the things upon which there was practical unanimity of opinion was the necessity of having the government organized into three departments.

The question in regard to the executive department was how to organize it, so as to secure two chief qualities; namely, energy of execution and safety to the people. The former was fully appreciated, for the weakness of execution during the confederation period, or the lack of execution, had impressed upon all thinking persons the necessity of more vigor in carrying out the laws. The experience during colonial days emphasized the necessity of surrounding the office with proper safeguards. And among those intrusted with the organization of a scheme of government, were many who were well versed in history—men who knew that the executive department is the one in which lies the menance to human liberty

Under these two main branches of the problem, arose such questions as: How many persons shall constitute the executive? What shall the term be? How shall the executive be chosen? What powers, other than those which are purely executive, shall be vested in the department? What checks shall be placed about the executive, or how shall the department be held responsible, without crippling its efficiency?

How well the problem was solved, we shall find out in our study of the provisions of the constitution pertaining to this department.

Clause 1.— Vestment of Power.

The executive power shall be vested in a president of the United States of America.[1] *He shall hold his office during the term of four years,*[2] *and together with the vice-president,*[3] *chosen for the same term, shall be elected as follows:*

[1]This sentence answers the question, "How many persons shall constitute the executive?" and gives the official title of the executive.

The executive authority is vested in one person for two chief reasons: To secure energy in execution, and to impose upon the executive a sense of responsibility. If the executive power were vested in a number of persons, the differences and jealousies sure to arise, and the absence of responsibility, would result in a feeble administration, which is but another name for a bad administration.

[2]The term first reported by the committee of the whole was seven years, with the provision forbidding re-election. Some of the delegates were in favor of annual elections, while others thought that the executive should be elected for life or good behavior. And other

terms, varying from two to ten years, had their advocates. After much discussion, the term of four years was agreed upon as a compromise, and no limitation was put upon the number of terms for which a person might be elected.

In another place it is made the duty of the president to recommended to congress such measures as he deems necessary for the good of the country. He should, therefore, have a term long enough to fairly test his "policy" and to stimulate him to personal firmness in the execution of his duties, yet not so long as to free him from a sense of responsibility. It was thought that a term of four years would cover both of the conditions mentioned.

[3]The purpose of having a vice-president is to provide a successor for the president in case of his disability or death.

Choosing the President and Vice-President.

Clause 2.—Number and Appointment of Electors.

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Three plans for the election of president and vice-president were proposed: First, election by congress; second, election by the people; third, election by persons chosen by the people for that special purpose.

The objection to the first plan was, that it would rob the executive department of that independence which

in our plan of government it is designed to possess—it would render the executive department in a measure subordinate to the legislative department.

The objections to the second plan came from two sources. Some of the delegates feared that, inexperienced as they were, the people could not be trusted to act wisely in the choice of a president—that they would be swayed by partizan feeling, instead of acting with cool deliberation. And the small states feared that in a popular election their power would count for little.

Then the compromise in the organization of the congress was remembered, and it was resolved that the election of the president and vice-president should be placed in the hands of persons chosen for that special purpose, and that the number of the electors from each state should be that of its representation in congress. This satisfied both parties. Those who thought that the people could not be intrusted with so important a matter as the choice of the president, hoped that this mode would place the election in the hands of the wise men of the several states. And the delegates from the small states secured in this all the concession which they could fairly ask.

This matter being settled, the next question was: How shall the electors be chosen? There being much difference of opinion on the subject, it was thought best to let each state choose its electors in the way which it might prefer.

Naturally the modes of choosing electors varied. In some states the legislature chose them, but this mode soon became unpopular.* In some states they were chosen by the people on a general ticket, and in others,

*South Carolina, however, retained this mode until very recently.

by the people by congressional districts. The last is the fairest way, because it most nearly represents the wishes of the people. By electing on a general ticket, the party which is in the majority in any state can elect *all* of the electors. But, for this very reason, the majority in each state has finally arranged the matter so that this is now the practice in all the states.

The present system of nominations and pledged electors was undreamed of by the framers of the constitution. They intended that in the selection of the president each elector should be free to vote according to his own best judgment. But it has come to pass that the electors simply register a verdict already rendered. Briefly the history of the change is this: During the administration of Washington (who had been elected unanimously) differences of opinion on questions of policy gave rise to political parties. To secure the unity of action so essential to success, the leaders of the respective parties, by agreement among themselves, designated, as each election approached, persons whom they recommended for support by electors of their party. Gradually the recommendation came to be looked upon as binding. In 1828 the Anti-Masonic party, having no members of congress to act as leaders, held a "people's convention." Its nominees received a surprisingly large vote. The popularity of this mode of nomination thus appearing, the other parties adopted it at the next election, and it has remained a part of our political machinery.

Clause 3.—Election of President and Vice-President.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves.

And they shall make a list of all the persons voted for, and the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them president, and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors, shall be vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.

Under this provision Washington was elected president twice and Adams once. In the disputed election of 1800, it was found that this mode would not do. The faulty feature in the plan is found in the first sentence, which requires the electors to vote for two persons for president, In this election, Jefferson and Burr, candidates of the same party, received the same number of votes and each had a majority. The power to choose then devolved upon the house of representa-

tives. There were at that time sixteen states, and consequently sixteen votes. Of these Jefferson received eight, Burr six, and the remaining two were "scattering." As it required nine votes to make a majority, no one was elected. The balloting was continued for seven days, thirty-five ballots being taken. On the thirty-sixth ballot Jefferson received ten votes to four for Burr. Jefferson thus became president and Burr vice-president. But the consequent bitterness of feeling was much regretted, and it was determined to change, slightly, the mode of election. The changes consisted in having the electors vote for one person for president and for a different person for vice-president, and when the election is thrown into the house of representatives, the selection is to be made from the *three* highest instead of the *five* highest as originally. The change was made by the twelfth amendment, passed in 1804, which is here given in full.

The Twelfth Amendment.

The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person

having the greatest number of votes for president shall be president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March, next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to office of president shall be eligible to that of vice-president of the United States.

Thus we see that the president may be elected in one of two ways—by electors or by the house of representatives; and that the vice-president may also be elected in one of two ways—by electors or by the senate.

The mode of choosing the president is regarded by

many as difficult to remember. Perhaps making an outline like the following will aid the memory:

First Mode or Process.

I. The electors, afer they are chosen:
   1. MEET in their respective states.
   2. VOTE by ballot, for president and vice-president.
   3. MAKE LISTS of the persons voted for and the number of votes for each.
   4. SIGN, CERTIFY and SEAL those lists.
   5. TRANSMIT them to the seat of government, addressed to the president of the senate.

II. The president of the senate:
   1. OPENS the certificates, in presence of both houses.
   2. DECLARES THE RESULT, after the votes have been counted.

Second Mode or Process.

Points—	*President—*	*Vice-President—*
Chosen by.....	House of Representatives	The Senate.
From.....	Three highest.	Two highest.
Voting.....	By ballot.	By ballot.
State power.....	Each one vote.	Each two votes.
Quorum.....	Representatives from two-thirds of the states.	Two-thirds of senators.
Necessary to choice	Majority of states.	Majority of senators.

The place of meeting is usually the capital of the state.

Three "lists" of the vote for president and three for vice-president are prepared, and "signed, certified and sealed." One pair of these lists is sent by mail and another by special messenger. The third is deposited with the judge of the United States District Court in whose district the electors meet, to be called for if necessary. The purpose of these precautions is to make sure that the vote of the state may not be lost, but may surely reach the president of the senate.

Clause 4.—Times of These Elections.

The congress may determine the time of choosing the electors,[1] *and the day on which they shall give their votes;*[2] *which day shall be the same throughout the United States.*[3]

[1]The day designated by congress is the first Tuesday after the first Monday in November. The election always comes in "leap year."

[2]The electors meet and vote on the second Monday in January.

[3]This provision was designed, first, to prevent fraud in voting; and second to leave each state free to act as it thought best in the matter of persons for the offices, unbiased by the probability of success or failure which would be shown if the elections occurred on different days in different states.

It may be desirable to know in this connection that:

The president of the senate sends for missing votes, if there be any, on the fourth Monday in January.

The counting of votes is begun on the second Wednesday in February and continued until the count is finished. See page 334.

In case the electors have not given any one a majority for the presidency, the house proceeds at once to elect. In a similar case the senate proceeds at once to choose a vice-president.

The provisions of the continental congress for the first election were:

1. Electors to be chosen, first Wednesday in January, 1789.

2. Electors to vote, first Wednesday in February.

3. The presidential term to commence first Wednesday in March. The first Wednesday in March in 1789

was the fourth day of the month, and on that day the presidential terms have continued to begin.

Clause 5.—Qualifications of President and Vice-President.

No person except a natural born citizen,[1] *or a citizen of the United States at the time of the adoption of this constitution,*[2] *shall be eligible to the office of president; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years,*[3] *and been fourteen years a resident within the United States.*[4]

[1]The importance of the office is such as, in the opinion of the framers of the constitution, to necessitate this requirement. And it does not seem unjust to make this limitation.

[2]This exception was made from a sense of gratitude to many distinguished persons, who, though not native citizens, had placed their lives and fortunes at the service of this country during the revolution, and who had already become citizens of the young republic. This provision is now, of course, obsolete.

[3]Age should bring wisdom. The age specified is great enough to permit the passions of youth to become moderated and the judgment matured. As a matter of fact, the youngest president yet elected was much older than this minimum. In monarchies the rulers are sometimes children. It cannot be so with us.

[4]But a "natural born citizen," even, may live so long in a foreign country as to lose his interest in his native land. This provision is intended to preclude the election of such persons to the presidency. They might seek it at the instance of a foreign government, for sinister purposes.

Will residence during *any* fourteen years satisfy the requirement? Commentators generally have expressed an affirmative opinion, based upon the fact that James Buchanan and others were elected president on their return from diplomatic service abroad. It must be remembered, however, that a person sent abroad to represent this government *does not lose his residence in this country.* Therefore the fact of Mr. Buchanan being elected after acting as our minister to England, has no bearing upon the question. On the other hand, the evident purpose of the provision could hardly be satisfied if a boy, a native of this country, should live here until fourteen years of age and then spend the rest of his years in a foreign country. And when the matter is carefully considered, it will be seen that the only fourteen years which will secure that state of mind in the candidate which is sought by the provision, are the fourteen years *immediately preceding election.* Again, twenty-one and fourteen equal thirty-five. A person "comes of age" at twenty-one. The fourteen years of *manhood* added would just make thirty-five years, the minimum age required. This coincidence could hardly have been accidental.

According to the twelfth amendment, the qualifications of the vice-president are the same as those of the president.

Clause 6.— Vacancies.

In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what

officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

If no regular succession were established, there would be danger of anarchy.

By an act passed March 1, 1792, congress provided that in case of the disability of both president and vice-president, the duties of the office of president should devolve upon the president *pro tempore* of the senate; and in case of a vacancy in that office, that they should then devolve upon the speaker of the house of representatives.

But when president Garfield died there was no president *pro tempore* of the senate and no speaker of the house; so that when vice-president Arthur became president, there was no one to succeed him in case of his disability. It was then expected that congress would devise another plan of succession; but it did not. When vice-president Hendricks died, there was again no president *pro tempore* of the senate or speaker of the house. This recurrence of the danger within four years prompted congress to provide an order of succession less liable to accident than the one so long in use. The succession was placed in the cabinet in the following order: Secretary of state, secretary of the treasury, secretary of war, attorney-general, postmaster-general, secretary of the navy, and secretary of the interior.

When the vice-president becomes president, he serves for the remainder of the term. In case the secretary of state, or of the treasury, should become acting president, he would serve only until a successor could be elected. The election would be held on the usual day. But if a vacancy occur in the last year of the

presidential term, the acting president would serve till the end of the term.

Clause 7.—President's Salary.

The president shall, at stated times, receive for his services a compensation[1] *which shall be neither increased nor diminished during the period for which he shall have been elected,*[2] *and he shall not receive within that period any other emolument from the United States or any of them.*[3]

[1]Otherwise a person of moderate means would be debarred from accepting the position, and the country might thereby be deprived of the services of some man of lofty character.

[2]Thus congress can neither bribe nor drive the president into doing anything which he may regard as unwise or wrong. And on the other hand, the president has no temptation to try to "undermine the virtue" of congress for his own pecuniary benefit.

[3]This provision has the same purpose in view as the last. "He is thus secured, in a great measure, against all sinister foreign influences. And he must be lost to all just sense of high duties of his station, if he does not conduct himself with an exclusive devotion to the good of the whole people, unmindful at once of the blandishments of courtiers, who seek to deceive him, and of partizans, who aim to govern him, and thus accomplish their own selfish purposes."*

Till 1873 the salary of the president was $25,000 a year. It was then raised to $50,000 a year. He also has the use of the White House, which is furnished at national expense; and special appropriations are fre-

* Story.

quently made to cover special expenses. And yet few presidents have been able to save anything out of their salaries.

The vice-president receives $8000 a year.

Clause 8.—Oath of Office.

Before he enter upon the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

This oath is usually administered by the chief justice of the Supreme Court. It is very simple, pledging the president to two things only; but they are the essential things.

"Taking the oath" is a part of the inauguration ceremonies which occur, usually, on the fourth of March.

Pertinent Questions.

Was there any president under the confederation? Why? When does the president's term begin? Suppose that day comes on Sunday? How does a presidential term compare with that of senator? Of representative? The first proposition in the constitutional convention was to make the presidential term seven years, and limit a person to one term. Is the present plan better or not as good? For how many terms may a person be elected president? What presidents have been elected for a second term?

How many presidential electors is this state entitled to? New York? Illinois? Wisconsin? Delaware? How many are there altogether? Show how the present mode is an advantage to the small states. Who were the electors of this state in the last presidential election? Get a "ticket" or ballot and study it. Tear off, beginning at the top, all that you can without affecting the vote. How could a person have voted for one of the republican candidates without voting for the

other? Where did the electors of this state meet? When? Did you preserve the newspaper report of their proceedings?

Could the president and vice-president be chosen from the same state? How many electoral votes were necessary to a choice last time? How many did each candidate receive? In case of election by the house of representatives, what is the smallest possible number that could elect? In case the house should fail to choose a president before the fourth of March, who would be president? Have we ever been threatened with a case of this kind? Which presidents have been elected by the house? Has a vice-president ever been chosen by the senate?

Specify four differences between the old and the new way of electing president and vice-president. Which was the most important change? What statement in the twelfth amendment was unnecessary in the original provision? If "two-thirds of the senators" are present, are two-thirds of the states necessarily represented? What is the smallest number of senators that could elect a vice-president? How many times has the vice-president succeeded to the presidency? What caused the vacancies? Is the result of the election known before the meeting of the electors?

Who is our present minister to England? Would a son of his born in England today be eligible in due time to the presidency? Make a comparative table, giving the qualifications, mode of election (general), and term of representatives, senators and president.

Who is now vice-president of the United States? Have we ever had more than one vice-president at the same time? Name the persons, in their order, who would succeed to the presidency if the president should be unable to perform his duties. If the president should become insane, who would decide that such is the fact? How long would the person thus succeeding to the position of acting president serve? State four ways in which a vacancy in the office of president may occur. If the president leaves Washington, is a vacancy created? If he leaves the country? If he is impeached? In case of the non-election of either president or vice-president, who would serve? How long? How is a vacancy in the office of vice-president filled?

At what "stated times" is the salary of the president paid? In November, 1872, President Grant was re-elected. His new term began March, 1873. In the meantime the salary of the president was increased to $50,000. Did President Grant get the increase? Explain.

Does the vice-president take an "oath of office?" If he succeeds to the presidency must he take the oath prescribed in the constitution? What constitutional provision for the salary of the vice president? Compare the duties of a governor of a state with those of the president.

Debate.

Resolved, That the president should be elected by a direct vote of the people.

Resolved, That the presidential term should be lengthened, and a second term forbidden.

Section I.—Powers of the President.

Clause 1.—Some Sole Powers.

The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States;[1] *he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices,*[2] *and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.*[3]

[1] Elsewhere it is made the duty of the president to see "that the laws are faithfully executed." The execution of the law may sometimes require force, hence it seems proper that the command of the army should be vested in him. Again, an army may be necessary to defend the country. In order that it may act promptly and efficiently, it must be directed by one person; and the person whom we instinctively designate for the purpose is the president.

The possession of this power by the president is fraught with danger, however. Unless surrounded by proper checks, it might be used to overturn our system of government. But the president can hardly, as now situated, misuse this power. In the first place, the general rules for the management and government of the army are made by congress. In the second place,

the army is supported by appropriations made by congress, and these are made for short periods. In the third place, congress could reduce or even abolish the army, if that step seemed necessary in defense of our liberties. In brief, the support and control of the army are in the hands of congress; the president merely directs its movements.

Thus far the president has never actually taken the field in command of the army; he has appointed military commanders, and has simply given them general directions, which they have carried out as best they could. At any time, however, if dissatisfied with the results, he may change the commander.

[2]The president cannot personally see to the carrying out of all the laws, and yet he is the one responsible for their execution. To assist him, the work is divided up into parts, and each part is placed in the hands of an officer appointed by the president (with the consent of the senate) and responsible to him. These persons constitute what is known as the cabinet, and all but two have the title secretary.

The one who keeps the originals of the public documents, the great seal, and the public records, is called the secretary of state. He is to the United States somewhat as the clerk is to the district or town, or the auditor to the county. But in addition, he is the one who has charge of our relations with foreign countries. He is the one to whom you would apply for a passport, if you were going to travel in foreign lands. He has an assistant and many subordinate officers. In this department are three bureaus, as they are called—the diplomatic, the consular, and the domestic. For further information, see pages 321, 349, 350.

The officer who has general charge of the receiving

and paying out of money is called the secretary of the treasury. He has two assistants and thousands of subordinates, some in Washington and others throughout the country. Under his direction money is coined, "greenbacks" and other tokens of indebtedness are issued and redeemed. He also has general charge of all government provisions for making navigation safe along the coast, such as lighthouses, etc.

All that pertains to executive control of the army is in charge of the secretary of war. The chiefs of bureaus in this department are army officers. The secretary may or may not be. The military academy at West Point is also, as we might expect, in charge of this department.

The control of the navy is exercised by the secretary of the navy. The chiefs of bureaus here are navy officers. The secretary may or may not be. This department has charge of the construction of war ships and the equipment of them; and, as we would expect it has charge of the naval academy at Annapolis.

The department which has the greatest diversity of duties is that of the interior. This department has charge of patents and trade-marks, of pensions, of United States lands, of the Indians, of the census, and of education. Its chief officer is called the secretary of the interior. The chiefs of bureaus in this department, except that of the census, are called commissioners.

The chief officer of the postoffice department is called the postmaster general. Here there are five bureaus, in charge respectively of appointments, contracts, finances, money orders, and foreign mail.

The officer who has charge of prosecution or defense of suits for or against the United States is called the attorney general. He is to the United States what the

county attorney is to the county. He has, of necessity, many assistants. All United States district attorneys and marshals act under direction of this department. He is also legal adviser of the government.

By an act approved February 11, 1889, the department of agriculture was established with appropriate duties assigned to it.

The practice of holding regular cabinet meetings was begun by Jefferson, and has continued as a matter of custom and expediency ever since. The meetings are usually secret. They are held for the purpose of consultation. The president may act upon the advice of his cabinet or not as he chooses.

The reports or opinions referred to in the provision of the constitution now under consideration, are called for at least once a year and are transmitted to congress with the president's message. But they may be called for at any time. The attorney general is frequently called upon for an opinion upon points of law.

Cabinet officers are not directly authorized by the constitution, but provisions of this section seem to take it for granted that the president would have such assistants. The salary of cabinet officers is now $8000 a year.

[3]This power extends to military offenses as well as to the criminal offenses of civilians.

The Supreme Court has decided that the president has power also to commute sentences; and that he may act in the matter at any time after the offense is committed, even before the trial. He may also stop proceedings in any criminal case prosecuted in the name of the United States.

The reason for making the case of impeachment an exception is obvious.

Clause 2.—Powers shared by the Senate.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided that two-thirds of the senators present concur;[1] *and he shall nominate and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not otherwise herein provided for, and which shall be established by law;*[2] *but congress may by law vest the appointment for such inferior officers as they may think proper, in the president alone, in the courts of law or in the heads of departments.*[3]

[1]The "advice" of the senate is rarely, if ever, asked; but its "consent" must be had in order to make the treaties lawful.

For the mode of making treaties, see pp. 320, 350, 360.

The power to make treaties was confided to the president originally because it had been the custom for the executive to possess the treaty-making power. But it is defensible on other grounds. Some treaties need to be considered secretly. This could hardly be done if congress were the treaty-making power. But the president and the cabinet can consider the matter in secret. Then promptness is sometimes needed, as in case of a treaty to close a war. Promptness may prevent useless loss of life. If congress had to be summoned, valuable time would be taken. As two-thirds of the senators present must agree to the provisions of the treaty, the president cannot misuse the power granted in this provision.

When the treaty necessitates the raising of money, the house of representatives is generally consulted, also.

In fact, if the house opposed such a treaty it is questionable whether it could be carried out. In each of the three great purchases of territory the president consulted congress before making the purchase.

[2]The nominations are made in writing, and the senate may either confirm or reject the nominees. The person or persons confirmed are then appointed by the president. When a nominee is rejected, the president generally sends in a new nomination.

This mode of appointment is thus defended by Alexander Hamilton, in the *Federalist:* "The blame of a bad nomination would fall upon the president singly and absolutely. The censure of rejecting a good one would lie entirely at the door of the senate; aggravated by the consideration of their having counteracted the good intentions of the executive. If an ill appointment should be made, the executive for nominating, and the senate for approving would participate, though in different degrees, in the opprobrium and disgrace."

It will be noted in this connection that, while in the state most of the officers are elected, in the general government all officers except the president and vice-president are appointed.

In Washington's administration the question was raised, can the president remove officers without the consent of congress? And it was decided that the president can remove all officers whom he can appoint. Judges, who hold for life, are of course excepted. During Johnson's administration, the power of the president in this direction was declared to be exactly equal to his power of appointment,—that is, if the consent of the senate be necessary to an appointment, it would also be necessary for removal. But afterwards the law was amended, so that now the president may

suspend an officer until the end of the next session of the senate, and make a temporary appointment. If the senate does not at its next session confirm the nomination to fill the vacancy, the old officer is re-instated. But if the president is determined to carry his point, he may immediately suspend the old officer again, and re-appoint the rejected candidate, and continue so to do.

During the early administrations comparatively few removals were made, except where it seemed necessary for the improvement of the public service. But Andrew Jackson introduced into our politics the proposition, "To the victors belong the spoils;" which means that the party electing the president should have all the offices. This view of the case presents to every public officer the temptation to secure himself in place, not by meritorious service in the line of his duty, but by activity in the service of his party; the tendency is, to displace love of country and devotion to duty, and to substitute therefor subserviency to strong party leaders. So crying has the evil become, that many of the wisest and most patriotic men in the country are seeking to so far reform the public service that an officer may feel reasonably secure in his position so long as he performs his duties faithfully, and that vacancies shall be filled by the promotion of worthy subordinates.

[3]This is to secure two objects: first, to relieve the president of the burden of appointing thousands of such officers; and second, to place the appointment in the hands of the officers responsible for the work of these subordinates.

The principal officers thus appointed are:

1. Postmasters having salaries less than $1000 a year, appointed by the postmaster general.

2. Clerks, messengers, janitors, etc., in the several

departments, appointed by the respective secretaries. The chiefs of bureaus and some of the more important officers in each department are appointed by the president with the consent of the senate.

3. The subordinates in each custom house, appointed by the collector thereof.

4. Clerks of United States courts, appointed by the judges. The United States district attorneys and marshals are appointed by the president, with the consent of the senate.

The term of appointees is four years, unless sooner removed. They may be and are removed, however, as before said, not only for unfitness, but also for political reasons.

Clause 3.—Temporary Appointments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

This provision is necessary because the senate is not always in session, and it would not pay to convene it for the purpose of acting upon nominations every time a vacancy occurs. The president may wait, however, if the case will permit, until the next session of congress before making an appointment.

Section III.—Duties of the President.

He shall from time to time give to congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient;[1] *he may on extraordinary occasions, convene both houses or either of them,*[2] *and in case of disagreement*

between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper;[3] *he shall receive ambassadors and other public ministers;*[4] *he shall take care that the laws be faithfully executed,*[5] *and shall commission all officers of the United States.*[6]

[1]The president complies with this provision by sending to congress at the beginning of each regular session his annual message. And at other times, as occasion demands, he sends special messages.

[2]Congress has been convened in extra session only ten times in all. The senate is frequently convened in extra session at the close of the regular session to consider appointments. This usually happens on the accession of a new president.

[3]No occasion has ever arisen for the exercise of this power.

[4]In all governments, diplomatic intercourse with other governments is carried on through the executive department.

To "receive" an ambassador is to recognize the country from which he comes as an independent sovereignty, a nation. Ambassadors may be rejected or dismissed, if personally objectionable to this country, if the countries from which they come are not recognized as belonging to the sisterhood of nations, or if the relations between their country and this become unfriendly. Nations at war with each other do not exchange ambassadors; each recalls its representative at the time of declaring war. Our ambassadors or other public ministers may be rejected by other nations for the reasons given above.

It will readily be seen that this power or duty may impose upon the president at times grave responsibility. The nature of this responsibility may be understood

when we remember the efforts made by the confederate states to secure recognition of their agents at the courts of London and Paris, during the rebellion. For either country to have recognized them would have been to interrupt our friendly relations with that country, and might have led to war between it and us. See page 347.

[5]This is the president's most important duty; and it is his duty to enforce the law whether he believes in its wisdom or not. He acts through the executive officers previously referred to.

[6]The commission bears the signature of the president, and the great seal of the United States, affixed by the secretary of state.

SECTION IV.—RESPONSIBILITY OF OFFICERS.

The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

The word "civil" in the provision is used here in distinction from *military* and *naval.* It is generally understood that members of congress are not "civil officers" within the meaning of this provision. Military and naval officers are tried by courts-martial, and members of congress are subject to trial by the house to which they belong.

The definition of "high crimes and misdemeanors" rests with the senate. Treason is defined in the constitution, and bribery has a meaning understood by all.

There have been seven cases of impeachment before the United States Senate. See pages 131, 138 and 333.

Pertinent Questions.

When, near the close of the late war, General Grant commanded all the armies of the Union, had he any superior officer? (That is, was there any officer higher in rank than he?) Who is commander-in-chief of the United States army today? Who is the highest purely military officer, and what is his rank?

Name the members of the present cabinet. If you wanted to trade with the Indians, to whom would you make application for permission?

Can the president pardon before trial? What cases can he not pardon? Name some one pardoned by the president. Could he pardon prisoners confined for breach of state law? Where does the general government confine its prisoners?

What is the smallest number of senators that could confirm or reject a treaty? What is ment by the executive session of the senate? How could you witness the proceedings at such a session? How large a vote is necessary to confirm a nomination of the president?

What is an ambassador? A minister? A consul? What is meant by "inferior" officers? By "civil service reform?"

State the principle which seems to cover the matter of removals.

Have you read the president's last annual message? What "information" did he give to congress? What "recommendations" did he make? How was the message delivered to congress? What "extra sessions" of congress do you remember? What ones have you read about in books? When were the different extra sessions called?

Give the number of bills vetoed by each president.

Has the president ever had to adjourn congress? For how long could he do it? How is the British parliament prorogued?

Where do impeachments originate? By whom are they tried? Who may be impeached? What for? Can persons who have ceased to be officers be impeached? What is the extent of sentence? Was President Johnson impeached? How is an impeachment trial conducted? What persons have been impeached?

Prepare a tabulation telling:

1. Mode of election of president (general statement only)
2. Qualifications.
3. Term.
4. Vacancy.
5. Salary—constitutional provision; law.
6. Powers.
7. Duties.

CHAPTER XXIV.

ARTICLE III.—THE JUDICIAL DEPARTMENT.

In the two articles so far considered, we have studied about the law-*making* and the law-*enforcing* departments of the government. We shall next examine the third great department, the one which *interprets* and *applies* the laws.

SECTION I.—ORGANIZATION.

The judicial power of the United States shall be vested in one Supreme Court,[1] *and in such inferior courts as the congress may from time to time ordain and establish.*[2] *The judges both of the Supreme and inferior courts, shall hold their offices during good behavior,*[3] *and shall at stated times receive for their services a compensation*[4] *which shall not be diminished during their continuance in office.*[5]

[1]While the *existence* of the Supreme Court is thus provided for in the constitution, the *number of judges* to constitute it was wisely left with congress. Thus the organization may be changed as circumstances change. The Supreme Court at first consisted of six justices, as they are called; but owing to the growth of the country and the consequent increase of labor to be performed, the number of justices has been increased to nine, one chief justice and eight associate justices. The Supreme Court is now far behind with its work, and one of the problems is, how to manage so that the court may be able to perform the duties imposed upon it.

[2]Under this provision congress has established three grades of "inferior" United States courts, the Circuit Courts of Appeal, Circuit Courts, and the District Courts.

The United States is divided into nine judicial circuits. To each of these a justice of the Supreme Court is assigned. A Circuit Court consists of one justice of the Supreme Court, one circuit judge, and one district judge. Court may be held by any one, or two, of these, or by all of them.

The United States is further subdivided into more than sixty judicial districts, the court in each consisting of one district judge. See pages 157 and 308.

[3]This virtually means during life. The purpose of this provision is to raise the judges above temptation, to put them in a position where they may feel safe in doing their exact duty, unawed by any outside power. If they fail to deal justly, if with this opportunity they prove unjust, partial, or in any way unworthy, they may be impeached, and on conviction they may be removed. But so far, almost without exception, those who have been honored with a place on a United States court have proved worthy of their high calling.

[4]The purpose of this also is to remove temptation from the judges. The salary of the chief justice is $10,500 a year, and of each associate justice, $10,000 a year. This seems like a generous amount. But several times a place on the supreme bench has been declined, on the plea that the appointee could not afford to serve for the salary attached.

For further information, see pages 307–9.

[5]This is to prevent the other departments from occupying a threatening position toward the judiciary. But the salary may be increased. While this leaves an opportunity for temptation, it could not be well avoided. The salary may be reduced, to take effect with appointments made after the passage of the law.

SECTION II.—JURISDICTION OF THE COURTS.

Clause 1.—Extent.

The judicial power shall extend to all cases,[1] *in law and equity,*[2] *arising under this constitution, the laws of the United States, and treaties made or which shall be made, under their authority;*[3] *to all cases affecting ambassadors, other public ministers, and consuls;*[4] *to all cases of admiralty jurisdiction;*[5] *to controversies to which the United States shall be a party;*[6] *to controversies between two or more states;*[7] *between a state and citizens of another state;*[8] *between citizens of different states;*[9] *between citizens of the same state claiming lands under grants of different states,*[10] *and between a state or the citizens thereof, and foreign states, citizens or subjects.*[11]

[1] The courts decide what the law is, whether a specified law is constitutional or not, and what the meaning of constitutional provisions is, but only as these questions arise in *cases* brought before them for trial. They do not advise congress or the president as to the constitutionality or unconstitutionality of a law. They do not directly make law. But in determining the meaning of certain laws and of constitutional provisions they may determine what the law is, and thus they may be said to make law indirectly. But sometimes a legal question or a question as to the meaning of a constitutional provision remains for a long time unanswered, because no *case* involving the question comes before the courts.

[2] Sometimes the law provides no adequate remedy for a wrong. Here is the necessity for a court of equity. For instance, A sells his business to B, agreeing not to become a rival, but immediately reopens in the next block. B's only remedy in law is to secure damages. If these are inadequate, a court of equity will close A's

store. Or C, having contracted to do a certain act for D, fails or declines to perform his part, the law will award D damages, equity will compel the fulfillment of the contract. Law is curative, equity is preventive. See Dole, 502.

In some states there are separate courts of law and of equity. But the provision under discussion gives the United States courts jurisdiction in cases both of law and of equity. "There are no juries in equity cases, and no criminal trials."*

[3]These pertain to the whole United States, so cases arising under them should be tried by a national, not by a state court.

[4]Because these foreign officers are under the protection of the Nation.

[5]That is, to cases arising on the high seas or on navigable waters. These, according also to I, 8–10, 11, are under the jurisdiction of the United States, and therefore this provision is simply a consequence of the one referred to.

[6]Because then the interests of the whole country are at stake, and should not be left to any state.

[7]Because the United States was organized to "insure domestic tranquility."

[8]This provision has been modified by the eleventh amendment, which reads as follows: "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state." That is, if the state is the *plaintiff*, the suit may be tried by the United States Supreme Court (compare clause 2). Claims of individuals against a

* Wright's Exposition of the United States Constitution.

state, if denied by the auditor, may be referred by them to the legislature. A state cannot be sued by an individual or corporation.

When a citizen is sued he must be sued in the courts of the United States or in the courts of his own state. It would be a source of irritation to compel a state to sue a citizen of another state in the courts of his own state, hence this provision that such suits shall be in the United States court.

[9]To remove any temptation to do injustice. But the suit is tried in accordance with the laws of the state of which the defendant is a citizen.

[10]Because the states are involved in the suit, and it would be unfair to let either decide the controversy.

This provision is not of much importance now, because state boundaries are clearly defined. But when the constitution was framed, this kind of question meant a good deal. The charters given during colonial times were very loosely drawn, and claims of different colonies and proprietors overlapped each other. The question of ownership had not been settled at the time of the revolution. During the formative or confederation period, these disputes had been a source of much ill-feeling.

[11]Because the general government, and not the individual states, takes care of our foreign relations. A foreign country holds the United States responsible for the acts of its citizens; and the United States only can be looked to, to secure justice to its citizens on the part of foreign countries or citizens.

Clause 2.—Jurisdiction of the Supreme Court.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a

party, the Supreme Court shall have original jurisdiction.[1] *In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction,*[2] *both as to law and fact, with such exceptions and under such regulations as the congress shall make.*[3]

[1]That is, such a suit must *commence* in the Supreme Court.

[2]That is, the suit must commence in some lower court, but it may be carried on, or appealed, to the Supreme Court.

The U. S. District Court has jurisdiction over crimes committed on the high seas, and over admiralty cases in general; over crimes cognizable by the authority of the United States (not capital) committed within the district, and over cases in bankruptcy.

The U. S. Circuit Court has appellate jurisdiction over the District Court. Some cases can be appealed no farther. It has original jurisdiction in civil suits involving $2000 or more, over equity cases and over cases arising under patent and copyright laws.

[3]To relieve the Supreme Court, congress has excepted some cases from the appellate jurisdiction of the court. So that some cases are finally disposed of in the inferior courts.

Clause 3.—The Trial of Crimes.

The trial of all crimes, except in cases of impeachment, shall be by jury,[1] *and such trial shall be held in the state where said crimes shall have been committed;*[2] *but when not committed within any state,*[3] *the trial shall be at such place or places as congress may by law have directed.*[4]

[1]A trial by jury is a trial by twelve men impartially selected. This is regarded as one of the great bulwarks of liberty.

Civil cases may at the desire of both parties, be tried by the court only. But for criminal trials a jury is guaranteed by this provision. In a criminal trial, the state or the nation is the prosecutor, and state or national judges *might* be temped to decide unjustly, if the matter were left to them.

[2]This leaves the accused in better condition to defend himself, than if he could be taken away far from home. He is thus able at the least expense to bring witnesses in his own behalf. In harmony with this, each state has at least one U. S. District Court for the trial of crimes against the general government. See Declaration of Independence.

This provision is probably binding also upon the states.

[3]That is, in the District of Columbia, in one of the territories, in the Indian country, in the forts or arsenals of the United States, or upon the high seas.

[4]Congress has specified courts for the trial of such crimes. Those committed on the high seas are tried in the state where the vessel arrives. See pages 230-4.

SECTION III.—TREASON.

Clause 1.—Definition and Trial.

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.[1] *No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.*[2]

[1]Treason is, in essence, a deliberate and violent breach of the allegiance due from a citizen or subject to his government. Being directed against the powers that be, the government in self defense is tempted to punish

it severely. The more tyrannical a government is the more likely it is to be plotted against, and the more suspicious it becomes. If treason were undefined, the government might declare acts to be treasonable which the people never suspected to be so. This had occurred so many times, and good men had so often been sent on this charge to an ignominious death, that the framers of the constitution deemed it prudent to define treason carefully in the fundamental law itself.

These provisions are taken from the famous statute of Edward III which first defined treason in England. This statute declared five things to be treasonable, the third and fourth of which were adopted for our constitution.

[2]An overt act is an open act, not one that is simply meditated or talked about, but actually performed.

The Supreme Court has decided that there must be an actual levying of war; that plotting to overthrow the government is not treason. But if hostilities have actually begun, if war has commenced, "all those who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are to be considered traitors."

Two witnesses, at least, "to the *same* overt act," are required, because thus only can a "preponderance of testimony" be secured.

Clause 2.—Punishment.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

As has been hinted, the punishment of treason had been very severe in European countries. Not only was

the person convicted of treason put to death in the most horrible ways, but his property was forfeited, and no one could inherit property from him or through him. Thus not only the person himself, but also his children and his children's children, were punished. The purpose of this provision is, in the words of Mr. Madison, to restrain congress "from extending the consequences of guilt beyond the person of its author."

Pertinent Questions.

By what authority was the Supreme Court established? By whom is it organized? Why is such a court necessary? How many judges or justices constitute the Supreme Court? Name them. Tell what president appointed each.

How many and what "inferior courts" has congress established? Name the Supreme Court justice who presides over the United States Circuit Court in this state. How many other states in this circuit? Name the United States circuit judge. Name the United States district judge. How are these officers appointed? How long do they serve? State the salary of each class of judges. What provision is there in regard to retiring United States judges?

If a person should rob the mail, in what court would he be tried? Tell about the Dartmouth College case. If any one should be caught making cigars without a license, before what court would he be tried? If an American owed money to an ambassador from a foreign country, and declined to pay it, how could the ambassador get his pay? If the ambassador owed an American, how could the American get his pay? Would you, if the United States government asked you to represent it in a foreign country, like to be tried by a court of that country?

If a murder be committed in the District of Columbia, in what court is the trial had? If committed in Minnesota? In Wyoming? If a sailor should steal from a passenger, when out on the ocean, where would the case be tried and in what court?

If a state other than the one in which you live should sue you where could the case be tried? How can the United States be a party to a suit?

Have you knowledge of any case in which one state sued another? If a merchant in your town should buy goods from a wholesale house in Chicago or New York, and should fail or refuse to pay for them, how could the house get its pay? What laws would apply to the case? What principle seems to be involved in these answers?

How many acts of congress have been declared unconstitutional by the Supreme Court?

Can a citizen of Wyoming bring a suit in a United States court? If you lived in Montana, how could you recover money owed you in Minnesota? Can a United States official be sued for acts performed in the discharge of his duties?

What famous case of treason was tried in 1807? Has Jefferson Davis ever been tried for treason?

If the property of a traitor is taken by the government, must it be restored to his heirs at his death? Can you commit treason against this state? What do you know about the John Brown case?

Compare III. 2, 3, with amendments 5 and 6, and state the rights of a person accused of crime, which are guaranteed by the constitution.

Debate.

Resolved, That all judicial officers should be appointed.

Tabular View.

Prepare a tabular view comparing the three departments of the United States government.

CHAPTER XXV.

ARTICLE IV.—The Relations of the States.

Section I.—State Records.

Full faith and credit[1] *shall be given in each state to the public acts,*[2] *records,*[3] *and judicial proceedings*[4] *of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved,*[5] *and the effect thereof.*

[1]That is, such faith and credit as would be given to such acts, etc., in the state in which they orignated.

[2]That is, the legislative acts,—the statutes and the constitutions.

[3]Such as the registration of deeds, wills, marriages, journals of the legislature, etc.

[4]The proceedings, judgments, orders, etc., of the courts.

[5]The records of a court are "proved" (that is, shown to be authentic) by the attestation of the clerk, with the seal of the court affixed (if there be one), and the certificate of the judge. The acts of the legislature are authenticated by the state seal.

SECTION II.—RELATIONS TO INHABITANTS OF OTHER STATES.

Clause 1.—Citizens.

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

That is, no state can give its citizens any privileges which it denies to citizens of other states. For instance, a citizen of Wisconsin, New York or California, coming to Minnesota has all the privileges of a citizen of Minnesota. To be sure he cannot vote in Minnesota until he has resided here for a time. This is simply a police regulation, to prevent fraud in voting. But he is entitled to the protection of the laws of Minnesota, may hold property here, and may engage in any business in which a citizen of Minnesota may engage.

He cannot, however, carry with him any special privileges which he may have enjoyed in the state from which he came. Thus, if one state permits a person to vote upon declaring his intention to become a citizen, while another requires that a voter shall be a full citizen, a person coming from the first state cannot claim the right to vote in the second until he becomes a full citizen.

Study in this connection the first clause of the fourteenth amendment.

Clause 2.—Fugitives from Justice.

A person charged in any state with treason, felony or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

The necessity for this provision will readily be understood, when it is remembered that any state has jurisdiction only within its own limits. But for this provision, criminals would be comparatively free from restraint, because they could in most cases get into another state. And this would of course tend to increase the number of criminals. See pp. 337, 349.

As civilization advances, countries, independent of each other politically, agree, for their mutual protection, to surrender to each other fugitives from justice. Treaties made for this purpose are called *extradition* treaties.

Clause 3.—Fugitives from Service.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

This clause was inserted as a concession to the slaveholding states, and had special reference to slaves, though it also applied to apprentices and any other persons who for any reason might be "bound to service." But as slavery no longer exists, and apprenticeship and other binding to service are almost things of the past, this provision is practically obsolete.

SECTION III.—NEW STATES AND TERRITORIES.

Clause 1.—The Admission of New States.

New states may be admitted by the congress into this Union;[1] *but no new state shall be formed or erected within the jurisdiction of any other state;*[2] *nor shall any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned as well as of the congress.*[3]

[1]These few words mark an era in political history. Heretofore nations had acquired new territory merely to enlarge the extent of their *provinces* or subject states, never with a view of uniting the acquired territory with the original system, allowing it equal political privileges. But when we look at the matter carefully, we shall see that our government could not consistently do otherwise than it did. The proposition involved in the revolution was that new territory should either be permitted to enjoy equal privileges with the parent state, or it should become independent.

But it was not simply to carry out a political theory that this provision was made; it was to solve a practical difficulty. At the close of the Revolutionary War, the United States extended west to the Mississippi river. The territory west of the Alleghany mountains contained almost no inhabitants, and was of course unorganized. This territory became the object of contention. Some of the states claimed jurisdiction over it, while others maintained that it was not within the limits of any states, and that as it had been secured by a war waged by the general government, this territory should be considered common property, to be managed by the general government. The states having claims

upon the territory expressed a willingness to relinquish them upon the condition that the territory should be formed into states as soon as the population would warrant. Accordingly, before the constitution was framed all these states except North Carolina and Georgia had relinquished their claims, and all but a small portion of the territory was under the jurisdiction of the general government. And July 13, 1787, that portion of the country west of Pennsylvania and north of the Ohio, had been organized into the Northwest Territory. This act of congress is generally known as The Ordinance of 1787. It was for a long time the model upon which other territories were organized.

For the usual mode of admitting states, see page 72.

[2]This shows the fear entertained lest the general government should try to control a state by threatening its existence.

[3]Vermont was claimed by both New York and New Hampshire. Both consented to the admission of Vermont as a state.

Kentucky was a part of Virginia, and became a state with her consent.

Maine became a state with the consent of Massachusetts, of which it had been a part.

Clause 2.—The Territories.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States,[1] *and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.*[2]

[1]The power to *acquire* territory is not expressly granted in the constitution, but it is implied as an act

of sovereignty. Territory was acquired by the general government before the constitution by cession from states, and since the adoption of the constitution it has been acquired by purchase, by discovery, by conquest, and by annexation.

The power to *dispose* of territory is also an attribute of sovereignty, and would have belonged to the general government without this provision. But this provision places the power in the hands of *congress;* otherwise land could be sold by the treaty-making power. Under this provision congress receded to Virginia that portion of the District of Columbia south of the Potomac.

The power to govern any territory which it possesses is also an attribute of sovereignty. This clause gives the power to congress; but any law for the regulation of territories needs the president's signature, the same as any other law.

[2]It will be remembered that North Carolina and Georgia had not at the time of the adoption of the constitution relinquished their claims to certain territory lying outside of their state limits. This provision was made as a concession to them. But they afterwards, North Carolina in 1790 and Georgia in 1802, ceded the disputed territory to the United States.

SECTION IV.—GUARANTIES TO THE STATES.

The United States shall guarantee to every state in this Union a republican form of government,[1] *and shall protect each of them against invasion,*[2] *and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.*[3]

[1]That is, the United States will protect each state against one man or a few men who may try to usurp

the functions of the state government. By inference, the United States could insist upon a republican form of government even if the people of the state desired some other. Happily, no necessity for the exercise of this power has yet arisen.

[2]This would have been the duty of the general government, even if this provision had not been made. To defend the country against invasion is one of the principal duties of government. The government was organized "to provide for the common defense."

[3]To "insure domestic tranquillity" was another reason given for the establishment of the constitution. But lest the general government should make every little disturbance a pretext for interfering with the local affairs of a state, it was provided that no interference should occur until asked for by state authority.

Pertinent Questions.

If a judgment is secured against a resident of New York and he moves to Minnesota without paying it, could he be held responsible in Minnesota without another suit? Is a marriage ceremony performed in Illinois binding in Kansas?

Define citizen. Can a person be a citizen of the United States without being a citizen of any state? Could he be a citizen of a state and not be a citizen of the United States? A certain southern state imposed a tax upon commercial travelers not residents of that state; was the act constitutional? What is the Civil Rights bill, and why was it passed? Can a citizen of any state claim in another state any privileges peculiar to the state from which he removed?

How is a "fugitive from justice" secured when he has escaped into another state? Is a governor obliged to surrender an escaped criminal upon demand of the authorities of the state from which he escaped? How is a criminal secured if he escapes into another country? Name countries with which we have *extradition* treaties. Have we any with Canada?

What were the provisions of the fugitive slave law?

Did the articles of confederation provide for the admission of new states into the union? Name the first state admitted into the Union. The last. What territories are now seeking admission into the sisterhood of states? How does a territory become a state? What advantages are gained by becoming a

state? Is congress bound to admit new states? Can congress compel a territory to become a state? Can it compel a state to remain a state? Is there such a thing in our system as *a state out of the Union?*

What does a citizen of the United States lose by moving into a territory?

Does the constitution define a *republican* government? Is any particular department charged with the duty of guaranteeing to each state a republican form of government?

When did the United States protect a state against invasion? Against domestic violence? Have any states been admitted into the Union more than once?

CHAPTER XXVI.

ARTICLE V.—AMENDMENTS TO THE CONSTITUTION.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as a part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress;[1] *provided, that no amendment, which may be made prior to the year one thousand eight hundred and eight, shall, in any manner, affect the first and fourth clauses in the ninth section of the first article;*[2] *and that no state, without its consent, shall be deprived of its equal suffrage in the senate.*[3]

[1]No one realized more fully than the framers of the constitution that, with the best thought which they could give to it, the constitution might need amending,

and therefore they provided ways for proposing and ratifying amendments.

It is purposely made difficult to amend the constitution because the fundamental law should not be changed except for weighty reasons. If these exist, the amendments may be made; the difficulty is not so great as to be insurmountable.

[2]By reading the clauses referred to, the student will readily see whom this was a concession to.

[3]This was to protect the small states, in whose interest the senate was organized.

The first ten amendments were proposed by congress at its first session in 1789, and they were ratified in 1791.

Two other amendments were proposed at the same time, but they were not ratified. One of them was to regulate the number of representatives; the other, to prevent congressmen from increasing their own salaries.

The eleventh amendment was proposed in 1796, and ratified in 1798.

The twelfth amendment, a consequence of the disputed election of 1801, was proposed in 1803, and ratified in 1804.

An amendment prohibiting citizens of the United States from accepting any titles, pensions, presents, or other emoluments from any foreign power, on pain of loss of citizenship, was proposed in 1811, but it was not ratified.

An amendment making slavery perpetual was proposed in 1861, in the hope that this might avert the war, but it was not ratified.

The thirteenth and fourteenth amendments were proposed in 1865 and 1868 respectively, and they were ratified the same years.

The fifteenth amendment was proposed in 1869, and ratified in 1870.

The propositions of amendments have thus far been made by congress, and all ratifications have been made by the state legislatures.

Pertinent Questions.

State four ways in which the constitution may be amended. What *temporary* limitation was placed upon the power to amend the constitution? What *permanent* prohibition? How is the English constitution amended? In what case *must* congress call a convention to propose amendments? Must the convention thus called propose any amendments? Which is the better of the two ways of proposing amendments? When an amendment is proposed by two-thirds of both houses of congress, is it necessary to secure the approval of the president? Can a state withdraw its ratification of an amendment? When is an amendment, once proposed, dead? Did it take three-fourths of *all* the states or only three-fourths of the loyal states to ratify the thirteenth amendment? How many of the disloyal states finally ratified it? How is the ratification and consequent validity of any proposed amendment made known?

CHAPTER XXVII.

ARTICLE VI.—MISCELLANEOUS.

Clause 1.—Prior Debts and Engagements.

All debts contracted and engagements entered into before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation.

The debts were incurred and the engagements were entered into by the United States, and changing the *form of government* would not release the country from its obligations. The insertion of this provision how-

ever, served as an explicit statement of the purpose of the government to live up to its engagements.

Clause 2.—National Supremacy.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

This provision settles definitely, and in what would seem to be unmistakable terms, the question of supremacy, about which so much discussion has been carried on. Within its sphere, within the limitations placed upon it by the constitution itself, the national government has the supremacy over any and all state governments.

Clause 3.—Oath of Office.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution;[1] *but no religious test shall ever be required as a qualification to any office or public trust under the United States.*[2]

[1]The first law passed by congress under the constitution was an act prescribing the form of the oath required by the provision above. It is as follows: "I, A. B., do solemnly swear, or affirm (as the case may be), that I will support the constitution of the United States."

[2]In all other countries at the time of the adoption of this constitution eligibility to public office was limited to members of the established church of the country. This constitution set the example of abolishing religious tests for public office, and the wisdom of this is so apparent that it has been followed entirely or in part by many of the civilized nations.

CHAPTER XXVIII.

ARTICLE VII.—RATIFICATION OF THIS CONSTITUTION.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Nine states made two-thirds of the entire number. Eleven states ratified the constitution within nine months of the time of its submission to them. As soon as nine states had ratified, congress made arrangements for putting the new form of government into operation.

The mode of ratification herein specified ignored the existence of the articles of confederation, and in specifying this mode the convention disregarded the instructions of the congress which called it. The congress had expressly provided that the work of the convention should be submitted to the congress and the state legislatures for approval. But this provision places the power to ratify in the hands of conventions elected by the people in the several states, which arrangement is in harmony with the opening words of the preamble.

Pertinent Questions.

What is the recognized law of nations in regard to the payment of the debts of a nation when it changes its form of government? If England should become a republic would this rule apply? Does it apply when a territory becomes a state? Were the debts of the confederation paid? How? What was the amount of the debt of the United States at the time of the adoption of the constitution? What is the value of the notes and bonds of the "Confederate States of America"? Why?

Which is sovereign, the nation or the individual states? Where else are there any provisions which teach the same thing? Why should *judges* be specially mentioned in VI. 2? What department of the government makes treaties? Are they binding upon the other departments? Upon the several states? Can a state nullify an act of congress? Has any state ever tried to do so?

Why are *state* officers bound to support the constitution of the *United States*? Is the requirement to take the "oath of office" a religious test? Why is the choice of oath or affirmation given? What was the iron-clad oath?

Would the ratification of the constitution by nine states have made it binding upon the other four? The articles of confederation required the consent of all the states to any amendment to them; by what right was this constitution adopted against the wishes of Rhode Island and North Carolina? If those two states had persisted in their refusal to ratify the constitution, what would have been their relations to the United States? Justify your answer.

CHAPTER XXIX.

The Amendments.

We have now considered the constitution about as it was presented to the states for ratification. Judging by our own affection for the noble instrument we would expect to learn that it was ratified promptly and unanimously. But, as a matter of fact, much hard work was required on the part of its friends to secure its ratification. Its every provision had to be explained and

justified. Probably the most able exposition was made by Hamilton, Madison and Jay, in a series of papers entitled, "The Federalist."

One of the greatest objections urged against the constitution was that it did not guarantee sufficiently the rights of individuals. It will be remembered in this connection that the principal grievance against England, as expressed in the Declaration of Independence, was that personal rights had not been respected; that, in consequence, the first form of government organ ized after independence, The Articles of Confederation, gave the general government no power to reach individuals. Experience showed this to have been a mistake, and the constitution authorizes the general government to execute its laws directly, enabling it to hold individuals responsible. On account of this re-enlargement of power, many people honestly feared that the new government might trespass upon personal rights as England had done. And several states at the time of ratifying suggested the propriety of so amending the constitution as to remove these fears.

In accordance with these recommendations, amendments were proposed at the first session of congress. The house of representatives proposed seventeen, to twelve of which the senate agreed. Only ten, however, were ratified by the legislatures of three-fourths of the states. They are, of course, the first ten among those that follow. It was decided by the same congress that the amendments should not be incorporated into the main body of the constitution, but should be appended to it as distinct articles. They have, however, the same force as the original constitution.

ARTICLE I.

Freedom of Religion, of Speech, and of Assembly.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;[1] *or abridging the freedom of speech or of the press;*[2] *or the right of the people peaceably to assemble and to petition the government for a redress or grievances.*[3]

[1]The chief purpose for which many of the early settlers came to America was that they might "worship God according to the dictates of their own conscience." Hence their descendants put *first* among the individual rights to be protected, this freedom of religion. But this provision does not authorize any one to commit crime on account of his religious views.

[2]The only limitation upon speech in this country is that the rights of others be respected. Any one may think as he pleases upon any subject, and may freely express his opinion, provided that in doing so he does not trespass upon the rights of others.

[3]It would seem that under a republican form of government this right might be assumed to be secure. The provision is meant to "make assurance doubly sure." History had shown the necessity of such precaution.

ARTICLE II.

Right to Bear Arms.

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

It should not be the policy of a republic to keep a large standing army. An army is expensive, it takes so many men from productive industries, and it is dan-

gerous to liberty—it may from its training become the instrument of tyranny.

But a republic must have defenders against foes foreign or domestic. A well-trained militia may be depended upon to fight with valor against a foreign foe, and may at the same time serve as a check upon usurpation.

For definition of *militia*, see page 162.

ARTICLE III.

Quartering Soldiers.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be described by law.

To "quarter" soldiers in any house is to allot them to it for food and shelter.

This, it will be remembered, was one of the grievances of the colonies. This quartering of soldiers had been, and indeed is in some countries to this day, a mode of watching and worrying persons for whom officers of the government entertained suspicion or ill will.

ARTICLE IV.

Security Against Unwarranted Searches.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches, and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

This, as well as the preceding provision, recognizes the maxim, "A man's house is his castle." It prevents the issuance of general warrants.

ARTICLE V.

Security to Life, Liberty and Property.

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury,[1] *except in cases arising in the land or naval forces, or in the militia when in actual service in time of war, or public danger;*[2] *nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb;*[3] *nor shall be compelled in any criminal case to be a witness against himself,*[4] *nor be deprived of life, liberty, or property, without due process of law;*[5] *nor shall private property be taken for public use without just compensation.*[6]

[1]For information in regard to the method of conducting criminal trials, see Division I.

[2]The necessity here for prompt and exact obedience to orders is so urgent, that summary methods of trial must be permitted.

For information regarding trial by court martial, see appendix, page 338.

[3]That is, when a jury has rendered its verdict and judgment has been pronounced, the accused cannot be compelled to submit to another trial on the same charge. But if the jury disagrees and fails to bring in a verdict, he may be tried again.

[4]Accused persons used to be tortured for the purpose of extorting from them a confession of guilt.

[5]In a despotism, the lives, liberty and property of the people are at the command of the ruler, subject to his whim.

[6]For an illustration of the method of securing private property for public use, see page 18.

ARTICLE VI.

Rights of Accused Persons.

In all criminal prosecutions the accused shall enjoy the right to a speedy[1] *and public*[2] *trial by an impartial jury*[3] *of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law,*[4] *and to be informed of the nature and cause of the accusation;*[5] *to be confronted with the witnesses against him;*[6] *to have compulsory process for obtaining witnesses in his favor;*[7] *and to have the assistance of counsel for his defense.*[8]

The importance of this provision is likely to be underestimated. Says Montesquien, "Liberty consists in security. This security is never more attacked than in public and private accusations. It is, therefore, upon the excellence of the criminal laws that chiefly the liberty of the citizen depends." And Lieber, in his very able work on Civil Liberty and Self-Government, says, "A sound penal trial is invariably one of the last fruits of political civilization, partly because it is one of the most difficult of subjects to elaborate, and because it requires long experience to find the proper mean between a due protection of the indicted person and an equally due protection of society. * * * It is one of the most difficult things in all spheres of action to induce irritated power to limit itself."

Besides the guarantees of the constitution, Lieber mentions the following as characteristic of a sound penal trial: the person to be tried must be present (and, of course, living); every man must be held innocent until proved otherwise; the indictment must be definite, and the prisoner must be allowed reasonable

time to prepare his defense; the trial must be oral; there must be well-considered law of evidence, which must exclude hearsay evidence; the judge must refrain from cross-examining witnesses; the verdict must be upon the evidence alone, and it must be *guilty* or *not guilty;** the punishment must be in proportion to the offense, and in accordance with common sense and justice; and there must be no injudicious pardoning power, which is a direct interference with the true government of law.

Most, if not all but the last, of the points mentioned by Dr. Lieber are covered by that rich inheritance which we have from England, that unwritten constitution, the common law. The question of how best to regulate the pardoning power is still unsettled.

[1]He may have his trial at the next term of court, which is never very remote. But the accused may, at his own request, have his trial postponed.

[2]Publicity is secured by the keeping of official records to which all may have access, by having an oral trial, by the admission of spectators to the court room, and by publication of the proceedings in the newspapers.

[3]For the mode of securing the "impartial jury," see page 63.

[4]It is provided in the body of the constitution (III., 2, 3,) that criminal trial shall be by jury, and in the state where the crime was committed. This amendment makes the further limitation that the trial shall be in the *district* where the crime was committed, so a person accused of crime cannot be put to the trouble and expense of transporting witnesses a great distance.

[5]The nature of the accusation is specified in the *war-*

*In some countries the verdict may leave a stigma upon an accused person, against whom guilt cannot be proven. Of this nature was the old verdict, "*not proven*."

rant and in the indictment, both of which, or certified copies of them, the accused has a right to see.

[6]Not only do the witnesses give their evidence in the presence of the accused, but he has also the right to cross-examine them.

[7]But for this "compulsory process" (called a *subpœna*), persons entirely guiltless might be unable to produce evidence in their own behalf. The natural desire of people to "keep out of trouble" would keep some knowing the circumstances of the case from giving their testimony, and others would be afraid to speak up for one under a cloud and with all the power of the government arrayed against him.

[8]The accused may plead his own cause, or he may engage a lawyer to do it for him. If he is too poor to employ counsel, the judge appoints a lawyer to defend him, whose services are paid for out of the public treasury.

From the foregoing, it will be seen that great care is exercised to give a person accused of crime full opportunity to defend himself. And it must be remembered in this connection that it is a principle of our jurisprudence that *the burden of proof lies upon the government.* That is, the accused is to be deemed innocent until he is *proved* guilty. We prefer that a number of guilty persons should escape punishment rather than that one innocent person should suffer.

ARTICLE VII.

Jury Trial in Common Law Suits.

In suits at common law,[1] *where the amount in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be*

otherwise re-examined in any court of the United States, than according to the rules of common law.[2]

[1]The meaning of this expression is difficult of explanation, but it covers most ordinary lawsuits. From the fact that a jury in criminal cases has already been guaranteed (III., 2, 3, and Am. VI.), it may be assumed that this provision is intended to cover civil suits.

[2]Among the "rules of common law" are these: 1. All suits are tried before a judge and a jury, the jury determining the *facts* in the case and the judge applying the *law*. 2. The facts tried by a jury can be re-examined only by means of a new trial before the same court.

The purpose of this provision is to preserve the jury trial as a real defense against governmental oppression. In the Supreme Court there is no jury; the trials are by the court. If questions of *fact* could be reviewed or re-examined by such a court on appeal the protection now given by the jury would be nullified.

ARTICLE VIII.

Excessive Bails, Fines and Punishments Forbidden.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Having enjoyed the protection of this and similar provisions for so many years, we can hardly appreciate their value. It must be borne in mind that those who "ordained and established" the constitution had been abused in just these ways, and that in this provision they provided against a real danger.

ARTICLE IX.

Unspecified Personal Rights Preserved.

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Certain rights which governments are prone to trample on have been mentioned in the preceding provisions. But not all of the personal rights could be enumerated. Hence this provision covering those unnamed.

ARTICLE X.

The United States Government one of Limited Powers.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

This provision gives a rule for interpreting the constitution. "It is important as a security against two opposite tendencies of opinion, each of which is equally subversive of the true import of the constitution. The one is to *imply* all powers, which may be useful to the national government, which are not *expressly prohibited;* and the other is, to *deny* all powers to the national government which are not *expressly granted.*"* The United States is "a government of limited powers," and has only such implied powers as are necessary to carry out the express powers. On the other hand, a state has all powers not denied to it by the state or federal constitutions.

* Story.

Pertinent Questions.

What is the general purpose of the first ten amendments? Do they restrict the general government or the state governments, or both? When and how were these amendments proposed? When and how ratified? What three limitations to the power of amendment does the constitution contain?

Is there any "established" or state church in the United States? How do you suppose that this came about? Are we as a people indifferent to religion? Can a person say what he pleases? Can he publish whatever opinions he pleases? What is *slander? Libel?* Why should these last two questions be asked here? Petition whom? What's the good of petitioning? What petitions did you learn about at the beginning of this study? Can soldiers in the regular army petition? Why? Has the "right of petition" ever been denied in this country?

Wherein is a standing army dangerous to liberty? Is this true of the navy? How is a "well-regulated militia" a check upon usurpation of authority? Does Amendment II. authorize you to keep a revolver? To carry it in your pocket? How often is the army mentioned in the Declaration of Independence, and what is said?

What are the objections to "quartering" soldiers in a private house? Does the amendment protect tenants? Why the exception in the amendment? What mention of quartering soldiers in the Declaration of Indepencence?

Get and read a warrant of arrest. A search warrant. Has a warrant always been needed as authority for arrest? Are arbitrary arrests, searches and seizures permitted in any civilized countries today?

What is a capital crime? An infamous crime? A presentment? An indictment? A grand jury? How do the proceedings of a grand jury compare with those of a petit jury? Why the differences? Why the exception in the first clause of the amendment? Can a convicted and sentenced person ask for a new trial? Under what other circumstances can persons be tried again? In what connections have you heard of private property being taken for public use.

Taking each guarantee in the sixth amendment, show the wrongs which an accused person, presumably innocent, would suffer if the provision were not recognized or that guarantee removed.

Find out all you can about *common law.* What is meant by a *civil* suit as distinguished from a *criminal* suit? What is meant by a case in *equity?* When an appeal is taken what is subject to re-examination? What is not? Why?

What conditions determine the just amount of bail? Of fines? What cruel punishments have you heard or read of as being administered by public authority? When and where were such punishments not "unusual"? Was the eighth amendment necessary?

What limit is there to things which "The People" may do? To the powers of the United States government? To those of a State government?

Find the history behind each provision in the ten amendments. From what country did we obtain the notions that the rights here preserved belong to freemen? From under what other country could the Colonies have come ready to be the United States as we love it, or from what other country could we have inherited such notions?

Since these ten amendments are intended for the protection of individuals against governmental oppression, it will be an excellent scheme now for the student to arrange in the form of a tabulation the various directions in which such protection is guaranteed by the constitution as amended. The following is simply suggestive:

I. From Legislative Oppression.—1. Thought; 2. Expression; 3. Bills of Attainder; 4. *Ex post facto* laws; 5. Social distinctions; 6. Assembly; 7. Petition.

II. From Executive Oppression.—1. Military; 2. Searches and seizures; 3. Life, Liberty, or Property; 4. Suspension of *Habeas Corpus.*

III. From Judicial Oppression.—1. Before trial: arrest, bail, information as to accusation, time of trial; 2. During trial: publicity, jury, evidence, counsel, punishment; 3. After trial: retrial; 4. Treason.

IV. From State oppression.

ARTICLE XI.

Limiting the Jurisdiction of United States Courts.

The judicial power of the United States shall not be construed to extend to any suit in law or equity,[1] *commenced or prosecuted against one of the United States*[2] *by citizens of another state, or by citizens or subjects of any foreign state.*[3]

[1]Equity is hard to define. According to Aristotle it is "the rectification of the law, when, by reason of its universality, it is deficient." Blackstone says, "Equity, in its true and genuine meaning, is the soul and spirit of all law. * * Equity is synonymous with justice."

It is the province of law to establish a code of rules whereby injustice may be prevented, and it may therefore be said that all law is equitable. "In a technical sense, the term equity is applied to those cases not specifically provided for by positive law." See page 208; also Dole's Talk's About Law, page 502.

[2]According to III. 2, a state could be sued for a debt the same as an individual, and shortly after the adoption of the constitution several of them were sued for debts incurred during the Revolutionary War. Pride and poverty both prompted the states to desire immunity from such suits. Hence the adoption of this amendment. See page 209.

[3]A non-resident secures the payment of a debt due from a state in the same way as a resident—by legislative appropriation.

ARTICLE XII.

Mode of Choosing the President and Vice-President.

The amendment has been discussed in connection with Article II, of the constitution, pages 184-6.

ARTICLE XIII.

Abolition of Slavery.

1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

This amendment, one of the "first fruits" of the Civil War, put an end to slavery in the United States. The wording was taken, almost verbatim, from the Ordinance of 1787.

ARTICLE XIV.

Miscellaneous Reconstruction Provisions.

Section I.—"Citizen" Defined. Privileges Guaranteed.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.[1] *No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.*[2]

[1]This provision defines citizenship. It was worded with the special view of including the negroes. It embodies the principle of the Civil Rights Bill, and is intended to guarantee to the negroes the protection implied in citizenship.

[2]Some of the amendments impose limitations only on the general government. Lest the states in which slavery had recently been abolished should endeavor to oppress the ex-slaves this provision was made as a limitation upon the states.

But this provision is general in it nature, and by means of it the United States can protect individuals

against oppression on the part of the states. Pomeroy* regards this as the most important amendment except the thirteenth.

Section II.—Basis of Representation.

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Each state determines who may vote within its borders. This provision was intended as an *inducement* to the former slave states to grant franchise to the colored men. It does not *compel* them to do this. But granting the franchise increases their representation. The fifteenth amendment is more *imperative* in this direction.

Section III.—Disabilities of Rebels.

No person shall be a senator or representative in congress, or elector of president or vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a

* Constitutional Law, p. 151.

member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.[1] *But congress may, by a two-thirds vote of each house, remove such disability.*[2]

[1]The primary purpose of this provision was to exclude from public office those who in the Civil War proved themselves unworthy of the confidence of the country by breaking an oath previously taken. Though the persons whom it was immediately intended to affect will soon all be "with the silent majority," the provision, by being made part of the constitution, will remain a warning to all in the future.

[2]The disabilities have been removed from all but a few of those engaged in the rebellion. This clause seems to put another limitation upon the power of the president to grant pardons. From 1862 to 1867 the president had been specially authorized by congress to grant amnesty to political offenders. And in 1867 President Johnson continued to grant such amnesty, denying the power of congress to put any limitation upon the president's pardoning power. But this provision specifically places the power to relieve certain disabilities in the hands of congress. The "two-thirds" vote is required in order that such disabilities may not be easily removed.

Section IV.—Public Debt.

The validity of the public debt of the United States, authorized by law, including debts incurred for the payment of pensions, and bounties for services in suppressing

insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations and claims shall be held illegal and void.

Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

This section needs little comment. It means simply that any expense incurred on the part of government in suppressing rebellion *shall be paid;* and that debts incurred in aid of rebellion *shall not be paid.* It applies not only to the late Civil War but to all future rebellions.

ARTICLE XV.

Suffrage.

The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

Congress shall have power to enforce this article by appropriate legislation.

This amendment was intended to put negroes upon the same footing as white people in the matter of suffrage.

Each state, as has previously been stated, prescribes the qualifications of voters within its borders. It may require that they be fifteen or twenty-five or twenty-one or any other number of years old; it may or may not require a property qualification; it may or may not require an educational qualification; it may include or exclude women as voters; it may draw the line at

imbeciles and felons, but it cannot draw the color line. A black citizen must be permitted to vote upon the same conditions as a white one.

Pertinent Questions.

What is meant by a state "repudiating" a debt? What states have done so? What reason did each assign for doing so? Can a city repudiate? A county?

Were amendments XIII., XIV., and XV. constitutionally adopted?*

How was slavery abolished in each of the states?† What does the emancipation proclamation say about slavery? Can slavery exist in Alaska? Why?

Are you a citizen of the United States? How may an alien become a citizen? May a person be a citizen of the United States without being a citizen of any state? A citizen of a state without being a citizen of the United States?‡ How does a citizen of the United States become a citizen of a certain state? What are some of the "privileges and immunities" of a citizen of the United States?‡ Can a Chinaman become a citizen? An Indian? Does this section give women the right to vote?

What provision of the constitution is amended by the second clause of the fourteenth amendment? What change is made? How often does the "counting" take place? What is it called? When will the next one occur? Has the penalty mentioned in the second clause ever been inflicted?

Name persons affected by the third clause of the fourteenth amendment. Name persons from whom the disabilities have been removed. How were they removed? Name persons against whom the disabilities still lie. May they vote? What provision of the original constitution is affected by the last sentence of this clause, and how is it modified?

How much money was expended in suppressing the rebellion? How was it raised? How much debt has been paid? How much remains unpaid? Did you ever see a United States bond or note? How much is a confederate bond for $1000 worth? Why? Have any emancipated slaves been paid for by the government?

What is the necessity of the clause commencing, "The congress shall have power?"

What is secured to negroes by the thirteenth amendment? By the fourteenth? By the fifteenth? Name persons who are citizens but cannot vote. Name three eminent colored men.

What clause could be omitted from the constitution without affecting it?

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*See Wright, 284; Andrews, 272; and Pomeroy, 76.
†See page 343.
‡See Wright, 287.

PART IV.

GOVERNMENT IN GENERAL.

CHAPTER XXX.

FORMS OF GOVERNMENT.

Classification.—Aristotle divided governments into three chief classes, based upon the number of persons constituting the governing element, as follows: government by *one*, monarchy; by the *few*, oligarchy; by the *many*, democracy.

Subdivisions of these classes may be made as follows:

1. By *one*, monarchy; hereditary or elective; absolute or limited.
2. By the *few*, oligarchy or aristocracy.
3. By the *many*, democracy or republic.

Definitions and examples.—A hereditary monarchy is one in which the succession is acquired by birth, the usual order being from father to eldest son; examples, England, Prussia, etc.

An elective monarchy is one in which the succession is by election; the term for life; example, the old German empire, in which the emperor was chosen by certain princes called "electors."*

* Our mode of electing a president may have been suggested in part by this old practice.

An absolute monarchy is one in which the three functions of government as related to law—the legislative, executive and judicial—are all vested in one person; examples, Russia and Turkey in Europe, and most of the countries of Asia and Africa.

A limited monarchy is one in which the sovereign's power is confined chiefly to executing the laws framed and interpreted by other departments; examples, England, and most of the other countries of Europe.

An oligarchy is that form of government in which the supreme power is vested in the hands of a few (*oligos*, few); example, the triumvirates of Rome.

An aristocracy is really a government by the best (*aristos*, the select, the best). This is the sense in which the word was first used. It has come to mean government by a privileged class. Aristocracy seldom, if ever, exists alone.

A democracy is that form of government in which the functions are administered directly by the people, only the clerical or ministerial work being done by officers, and they appointed by the people; examples, the old German tribes, some of the states of ancient Greece, some of the present cantons of Switzerland, the early settlements of New England, and in a limited sense our own school districts and towns.

A republic is a representative democracy. A democracy is practicable only within a very limited area. When the area grows large the people must delegate much of work of government to representatives. Examples, the United States, each state in the Union, Switzerland, and most of the countries of America.

The Origin of Each Typical Form.—Monarchy and oligarchy both probably owe their existence to war. The successful chieftain or leader in war became the

king, and his retainers or followers became the privileged classes. Those who were subdued either became slaves or were simply "the common people." Democracy had its beginnings, and flourishes best, in times of peace. The people, though they had to fight again and again to secure recognition, have really won their right to it by the arts of peace.

The Criteria of Good Government.—Among the tests by which the goodness or badness of a government, or form of government, may be determined, are the following:

1. A good government is *stable.* Stability is the foundation of worthiness of character in governments as well as in persons. The basis of progress is permanence—one cannot grow wise, or rich, or strong, unless he can preserve at least a part of what he gains. "Conduciveness to progress includes the whole excellence of government."*

2. A good government *tends to increase the sum of good qualities in the governed.* Strength comes from exercise. Therefore a government is excellent in proportion as it works up to the possibilities of a people for self-government and fits them to go on advancing in intellectual and moral power.

3. A good government *has proper machinery.* This should be "adapted to take advantage of the amount of good qualities which may at any time exist, and make them instrumental to right purposes."*

"Representative Government the Ideally Best Polity."—Every student who has access to Mills' Representative Government should read the chapter with the heading at the beginning of this paragraph. He combats the proposition, "if a good despot could be insured, des-

* Mills Representative Government.

potic monarchy would be the best form of government." Granting that much good might be done, he shows that the very passivity of the people must result in deterioration, "that is, if the nation had ever attained anything to decline from." On the other hand, he shows that participation in public affairs gives a mental and moral training otherwise unattainable. After showing the nature of the mental development acquired, he says: "Still more salutary is the moral part of the instruction afforded by the participation of the private citizen, if even rarely, in public functions. He is called upon, while so engaged, to weigh interests not his own; to be guided, in case of conflicting claims by another rule than his private partialities; to apply, at every turn, principles and maxims which have for their reason of existence the general good; and he usually finds associated with him in the same work minds more familiarized than his own with these ideas and operations, whose study it will be to supply reasons to his understanding, and stimulation to his feeling for the general good. He is made to feel himself one of the public, and whatever is their interest to be his interest. Where this school of public spirit does not exist * * * a neighbor, not being an ally or an associate, since he is never engaged in any common undertaking for the joint benefit, is therefore only a rival."

Dangers in Each Form of Government.—While each of the typical forms has merits of its own,—the monarchy having stability, the aristocracy securing the benefit of inherited good qualities, and democracy the advantages referred to in the preceding paragraph—there is danger in each form. Monarchy continually tends toward that inconsiderate exercise of power which we call tyranny. Aristocracy tends toward oligarchy; govern-

ment by the *best* is prone to decline into government by the *few* without regard to qualification. And democracy is in danger of degenerating into mob rule.

Every Government Aims to be Aristocratic.—That is, each government in theory seeks to have those rule who are best fitted to manage public affairs. This is the thought, for instance, in our requiring certain qualifications in voters and office-holders.

Our Own Government.—We fondly believe that our own government combines to a high degree the excellencies of all the forms.

Our hope for stability lies chiefly in the fact that our corner stone is eternal justice, the equality of all men before the law. Even the severe shock of civil war has been endured, and our system is more strongly intrenched in the confidence of the world than ever before.

We believe in the potency of good blood and good training. But the worth of each individual must be *shown*, it will not be taken for granted. We will neither lift him up because he is "his father's son," nor cast him down because his father was unworthy.

Situated as we are, with no powerful rivals near us, with the ocean between us and the countries of Europe, the common defense requires no great standing army to eat up our substance and to menace our liberties. Living in the north temperate zone, the belt of highest civilization, in a country capable of producing almost everything desirable, there is every reason to believe that, if we are true to ourselves and our opportunities, we may long enjoy prosperity and peace.

Debate.

Resolved, That universal suffrage is dangerous to the well being of society.

PART V.

COMMERCIAL LAW.

RESPONSIBILITY.

Ignorance of the law is no excuse.

At first sight this would seem unjust, since no one but a lawyer can be expected to have much legal knowledge. But as law is simply common sense applied, the exercise of ordinary judgment is usually sufficent to enable a person to act safely.

To present a few of the conclusions which have been reached by the experience of the ages, is the purpose of the following pages.

CHAPTER XXXI.

CONTRACTS.

Definitions.—A contract is an agreement between two or more parties, containing on the one hand an *offer* and on the other an *acceptance.*

Contracts are *express* or *implied.* An express contract is one whose terms are definitely stated in words; an implied contract is one whose terms are understood from the circumstances. A written contract is express; an oral contract may be express or implied.

Fundamental Principles.—Every one able to contract is free to enter into any agreement not forbidden by law. Every such person is bound to fulfill every legal contract that he makes.

Essential to a Contract.—To be binding, however:

1. A contract must be legal.

Most contracts are permitted by law. But a contract the carrying out of which is recognized as subversive of justice, morality, or the general welfare, is illegal, and therefore void.

2. The thing contracted to be done must be possible in its nature.

That a person finds it impossible *under the circumstances* to live up to his contract should not and does not release him from responsibility.

3. The parties to the agreement must be competent to contract.

Persons not able to contract are minors, lunatics, idiots and drunk people, and married women, except (in some states) in relation to their separate estates. The purpose of this arrangement is to protect those who cannot protect themselves. A minor may, however, enforce a contract if he chooses to do so. A contract with a minor for the necessaries of life, when they are not or cannot be furnished by a parent or guardian, is valid. And any contract ratified by a minor after coming of age is binding upon him. A person unable to contract personally cannot contract through an agent. But he may act as an agent.

4. The parties to the contract must assent to it.

The assent must be voluntary. It may be given by words, by acts, or by accepting the benefits of the offer. If acceptance is by letter, the contract is complete when the letter of acceptance is mailed. The parties must assent to the same thing. Assent imposing a new condition is no assent.

5. The promise must be for a consideration.

The law will not compel a person to give something

for nothing. But the amount of the consideration is usually unimportant, so long as it is reasonable. Anything is a consideration which is of benefit to the person promising or of loss or inconvenience to the other. An illegal consideration is, however, not a consideration; nor is the performance of a moral duty, nor the doing of what would be a legal duty without the promise in question. If the consideration fails, the contract fails. One has no right to sue on a contract unless he has performed or offered to perform his part.

6. *The contract must be made without fraud.*

Fraud may be practiced in two ways, by making statements known to be false or by concealing facts that ought to be revealed. But if the parties meet on equal terms, with the same sources of information, and if nothing is done to conceal faults, there is no fraud in law. "Let the buyer beware," is an ancient maxim, and a buyer must exercise reasonable diligence and prudence. Fraud absolves the injured party, but the defrauding party may be held to the contract; that is, the contract is voidable at the option of the party deceived.

7. *Some contracts must be in writing.*

The principal classes of commercial contracts which must be in writing to be binding, are: (*a*) agreements for the sale of property of more than a certain value; (*b*) agreements of guaranty; (*c*) agreements not to be performed within a year.

In the famous English "Statute of Frauds," which is the basis of the American local statutes on matters referred to in this section, the value of personal property requiring written contract was ten pounds or fifty dollars. In the United States the value varies in different states from $30 to $200. But if part of the property is

delivered or part of the purchase money is paid the whole contract is binding, even if not in writing.

A guaranty is an agreement by which a person warrants that a certain third person shall duly perform an engagement. Thus if A obtains goods from B upon the assurance of C that they will be paid for, C is said to guarantee the debt.

A contract which *may* be performed within a year does not come under the statute, even if such performance seems improbable at the time of making the contract.

The style of the writing is immaterial—it may be formal or informal, in ink or pencil. It may be made by the principal or by his agent.

Pertinent Questions.

How are the laws—legislative enactments and decisions of the Supreme Court—made public? Why are they thus published?

Tell whether the following agreements are valid contracts or not, and why:

1. An agreement to print a libel. A lease of a house for gambling purposes. A contract executed on Sunday. A contract for work to be done for five consecutive days, beginning on Friday. How would it affect the case if the work were the removing of goods from a building in imminent danger of falling? The agreement of a tinsmith never again to work at his trade. His agreement not to work at it within a specified time or in a certain town.

2. An agreement to swim across the ocean. To pay for a horse at the rate of one kernel for the first nail in the horse's shoes, two for the second, four for the third, eight for the fourth, and so on. To deliver goods at a certain time, though the delivery at the proper time may be prevented by some accident. Is a person released from responsibility by sickness?

3. An agreement by an orphan to pay for necessaries at some future time. If the price charged is exorbitant, is he bound to pay it or only a fair market price? A man while drunk buys a horse for which he has no use, but after becoming sober continues to use the horse. If the price is excessive, how much must he pay? When a married women buys goods on credit, is she acting as the principal or as her husband's agent?

4. An order for goods to be sent to a man's house, nothing being said about payment. An offer retracted before accept-

ance. An offer for a certain horse; an acceptance under the impression that a different horse is meant. A service permitted though uninvited; give an example. A man in St. Paul offers by letter a certain piece of property at a certain price to a man in Chicago; an hour after mailing the letter he changes his mind; how can he prevent a contract?

5. A agrees to give B $25 for a silver dime. But if this particular dime were of a rare kind and desired by A, a wealthy coin collector, to complete a set, would the consideration be sufficient? An offer shouted from a fourth story window just as the roof is about to fall, in consequence of which offer a fireman at unusual personal risk successfully attempts the rescue. An offer and acceptance for a horse which is afterwards discovered to have been dead at time of sale. A promise made under threat of spreading an infamous report. An agreement for the purpose of securing the postponement of the payment of a debt. How many "considerations" are there in a valid contract?

6. The sale of an unfashionable "ready-made" suit of clothes, nothing being said about the style. The sale of a plated watch chain, the dealer permitting the purchaser to suppose it solid gold. The sale of a blind horse, nothing being said about its sight, no effort being made to conceal its blindness, and full opportunity for examination being given to the purchaser. The sale of a house and lot at a certain price, greater than the purchaser had at first intended to give, upon the representation of the seller that he had "been offered" such a sum. The purchase of a piece of land which unknown to the vendor contains a valuable mine, nothing being said to mislead said vendor.

7. An oral order for goods to the value of $500. How does the buyer's receiving part of the goods affect the mater? How else could the contract be made binding? What position does a person assume by endorsing a note? By orally saying that a debt of another will be paid? An oral engagement made December first to work a year beginning January first.

CHAPTER XXXII.

AGENCY.

Definitions.—An agent is a person authorized to act for another in dealing with third parties. The one for whom the agent acts is called the principal.

Authority of Agent.—An agent's authority may be granted orally or in writing. When written it is called a "power of attorney." A general agent has all the authority implied in his employment. A special agent has only such authority as is specifically granted.

Responsibility of the Principal.—Between the principal and his agent responsibility is determined by their contract. Expressly or impliedly the principal agrees to pay for the service rendered.

It is in the principal's relation to third parties that the most important rule of agency appears. It is this: *The principal is responsible for the authorized acts of his agent.* The theory is that the acts are those of the principal, the agent being merely an instrument. And accordingly, the principal is bound not only by such acts of his agent as he has really authorized, but also by such as he *apparently* authorizes.

Responsibility of Agent.—The agent is responsible to his principal for any violation of their contract. Expressly or impliedly he is bound to obey orders, to exercise ordinary skill and care in the performance of his duty, and to refrain from putting his interests in adverse relation to those of his principal.

To the third party the agent is not responsible, except in the following cases: When he specifically assumes responsibility, when he conceals the identity of his principal, when he exceeds his authority, or when he acts fraudulently.

Termination of Agency.—An agency terminates at the death of either principal or agent. It may also be terminated by revocation of authority, which takes effect upon receipt of the notice, or by the bankruptcy or lunacy of the principal, judicially declared.

Pertinent Questions.

In the following cases name the principal, the agent, and the third party: A clerk in a store; a man employed to sell goods by sample; a cashier in a bank; a conductor on a train; a commission merchant; a partner acting for a firm, a sheriff.

May a minor act as principal? As agent? A watch left at a jeweler's store for repairs is injured by the workman; who is responsible to the owner? On account of a road overseer's neglect a horse is injured by stepping through a hole in a bridge; to whom shall the owner look for damages? If a person is notified that another claims to represent him as agent and he neglects to repudiate the claim, is he responsible for acts of the claimant as agent?

May an agent having authority to fix prices sell to himself?

May a clerk in a store take goods at regular marked prices?

An agent transacts business after his principal's death but before he has received notice thereof, is the transaction binding upon the heirs?

CHAPTER XXXIII.

PARTNERSHIP.

What it is.—Partnership is the relation existing between persons who have agreed to combine their property or skill for the prosecution of a given enterprise, and to share the profits or losses resulting therefrom.

How Formed.—Partnership being a matter of agreement is subject to the law of contracts. When the agreement is in writing, it is called "articles of co-partnership." The articles usually specify the parties and the firm name, the nature and the location of the business to be carried on, the investment of each party, the basis for apportioning profits and losses, and sometimes the duration of the co-partnership. There are

generally other provisions, their nature depending upon the circumstances.

Responsibility.—As to each other, the partners have the rights and duties which they agree upon.

As to third parties, the two most important rules of law are: first, that *the firm is bound by the acts of each member*, in matters pertaining to the firm's business; second, *each member is liable for all the debts of the firm.*

Dissolution.—If the duration of the partnership is not specified, it may be dissolved by any partner at any time. If its duration is specified, it expires, of course, by limitation or by mutual consent. In either case, the death of a partner dissolves the firm. If a partner becomes insane or acts fraudulently, the partnership may be dissolved by a decree of the court. The sale of an interest (which must have the consent of each partner) dissolves the partnership and forms a new one.

Notice of Dissolution.—That the retiring partners may be freed from responsibility for new debts, if the dissolution be by sale of interest (and this is a very common way), notice of the dissolution must be given to the world, and special notice of the fact must be given to those from whom the firm has been in the habit of buying.

Limited Partnership.—In most states, what is called a limited partnership may be formed, whereby the responsibility of some of the partners may be limited to their investment in the business. By this arrangement the private property of the special partners (as they are called) cannot be taken for debts of the firm.

In such a case, however, it is but just, and the law therefore demands, that notice of the fact of limited responsibility be given and that no appearance of

responsibility be assumed. To this end it is required: (*a*) that the articles of copartnership be in writing, and that they be published and recorded; (*b*) that the amount contributed by the special partners be actually paid in; (*c*) that the names of the special partners do not appear in the firm name; (*d*) that they take no active part in the management of the business.

Pertinent Questions.

Why are partnerships formed? May one person invest money while another invests skill? Is a person who receives a percentage of his sales by way of salary a partner?

Why cannot a partner sell his interest without consulting the other members of the firm? Why may the fraudulent act of a partner dissolve the firm? Why does the death of a member end the firm—that is, why not let his heir succeed to his right in the firm as he succeeds to his real estate?

May the *private* property of a partner be taken to satisfy the debts of the firm? May the firm's property be taken to satisfy the debt of one of its members? Can men dissolve their debts by dissolving their partnership? If one partner continues the business agreeing to pay all indebtedness of the firm, is the retiring partner released from obligation in relation to the debts? Show the justice of each requirement in case of special partners.

CHAPTER XXXIV.

CORPORATIONS.

Purpose.—Partnership enables a number of persons, as we have seen, to accomplish by combining their property and skill what would be unattainable by them acting individually.

But the individual responsibility involved in partnership, and the difficulty of transferring interest, render

necessary some other mode of combining capital for carrying on enterprises requiring vast resources, and, from their nature, demanding long time and freedom from interruption for their accomplishment. For instance, no one would dare to assume personal responsibility for the debts of a railroad, nor could such an enterprise be managed if every transfer of interest dissolved the company. The desired limitation of responsibility and facility of transfer of interest are secured by the formation of *corporations*.

Nature.—But responsibility there must be, or the combination could transact no business. And responsibility depends upon personality—a *thing* cannot be held responsible. As this personality does not exist aside from the persons of those uniting their resources, it must be created. The creative power is the legislature. The personality created is the corporation.* A corporation is, therefore, an artificial or ficticious person, created under general law or by a special act of the legislature,† and capable of acting within prescribed limits as if it were a natural person, but beyond those limits incapable of acting at all.

Management.—The persons who contribute to the capital of the corporation, or company, receive certificates of stock, that is, pieces of paper certifying that said persons own so many shares in the company. The capital, be it remembered, is the property of the corporation, not of the individuals. The number of these stockholders may be large or small, a dozen or a thousand. The general management of corporate business is necessarily entrusted to a small number of

* From the Latin *corpus, corporis*, a body.
† This special act defining the powers and duties of the corporation is called its *charter*.

persons called directors. These are elected by the stockholders, each share having one vote. The directors select from their own number a president, a secretary, and other necessary officers. These persons and the other agents of the corporation carry out the policy determined upon by the directors.

Why Limited in Powers.—The question suggests itself, Why can a corporation do only certain things? The most obvious answer is, that this is consequent upon its mode of creation. Being a creature of the legislature, it can have only those powers which are specifically or impliedly granted to it. But pushing the matter farther, it may pertinently be asked, Why doesn't the legislature endow it with power to do anything that may properly be done by a natural person? Two reasons, at least, appear. First, from the corporation's standpoint, it is a matter of business prudence to have its purpose and powers defined: (*a*) to enable it to secure subscribers to its stock, as no one would like to risk his money blindly; and (*b*) because thus only can the directors be held to accountability. Second, from the standpoint of the public, for whom the legislature acts, the defining is necessary in order that corporations may be controlled and dangerous combinations prevented.

In this connection it may be noted that corporations are granted some privileges not possessed by individuals. For instance, private property such as land may be taken, even against the wishes of the owner, to permit the building of a railroad. This can be done, however, only on the ground of public good, and by giving the owner just compensation.

Responsibility.—A corporation, like any other person is responsible for any contracts that it makes,

within its charter. It necessarily acts entirely through agents, hence the law of agency has an important bearing upon all contracts with a corporation.

Debts incurred lie against the corporation, not as a rule against the stockholders individually. Sometimes stockholders are by the charter made liable to limited extent, say to an amount equal to the par value of their stock.

Dissolution.—Some companies are incorporated so that they may last forever. Others are incorporated for a specified time. The latter expire by limitation or by becoming insolvent. A corporation of either kind may secure dissolution by voluntarily surrendering its charter. And sometimes the legislature reserves in the charter the right to dissolve the company under certain conditions.

The affairs of a corporation are usually closed up by a "receiver," who collects the bills, disposes of the property, pays the indebtedness as far as he can, and distributes the residue among the stockholders.

COMPARISON OF PARTNERSHIP WITH CORPORATION.

POINTS OF COMPARISON.	PARTNERSHIP.	CORPORATION.
1. Status.	A collection of natural persons.	A fictitious person.
2. Formation.	By agreement.	By legislative enactment.
3. Powers.	Those of natural persons.	Only those conferred by law.
4. Debts.	All partners liable for all debts.	Stockholders not usually liable.
5. Transfer of interest by sale or death.	Dissolves partnership.	New stockholder succeeds to shares of the old.

Pertinent Questions.

Who constitute the managing body in a school district? In a town? In a village? In a city? In a county? In the state?

In the United States?* In a railroad? In a mining company? In a bank? In a church? In a college?

Write a list of all the corporations that you know or have ever heard of, grouping them under the heads *public* and *private.*

How could a pastor collect his salary if the church should refuse to pay it?

Could a bank buy a piece of ground "on speculation?" To build its banking-house on? Could a county lend money if it had a surplus? State the general powers of a corporation. Some of the special powers of a bank. Of a city

A portion of a man's farm is taken for a highway, and he is paid damages; to whom does said land belong? The road intersects the farm, and crossing the road is a brook containing trout, which have been put there and cared for by the farmer; may a boy sit on the public bridge and catch trout from that brook? If the road should be abandoned or lifted, to whom would the use of the land go?

CHAPTER XXXV.

COMMERCIAL PAPER.

Kinds and Uses.—If a man wishes to buy some commodity from another but has not the money to pay for it, he may secure what he wants by giving his written promise to pay at some future time. This written promise, or *note*, the seller prefers to an oral promise for several reasons, only two of which need be mentioned here: first, because it is *prima facie* evidence of the debt; and, second, because it may be more easily transferred or handed over to some one else.

If J. M. Johnson, of Saint Paul, owes C. M. Jones, of Chicago, a hundred dollars, and Nelson Blake, of Chicago, owes J. M. Johnson a hundred dollars, it is plain that the risk, expense, time and trouble of sending the money to and from Chicago may be avoided,

*The United States: "Its charter, the constitution. * * * Its flag the symbol of its power; its seal, of its authority."—Dole.

and the indebtedness wiped out by J. M. Johnson ordering Nelson Blake to pay the hundred dollars to C. M. Jones. The written order to this effect, called a *draft*, would be sent to C. M. Jones, who would present it for payment to Nelson Blake, and upon receiving his money would turn *the draft* over to Blake.

To avoid the risk of being robbed, merchants and some others are in the habit of depositing each evening in a bank the receipts of the day, with the understanding that the money will be paid out, at any time, to any person whom they order it paid to. The order on the bank is called a *check*.

It is very easy to see that these three devices are of immense value to the commercial world; the first by rendering available future resources, and the other two by enabling payments to be made safely.

Definitions.—A *note* is an unconditional promise in writing, to pay a definite sum of money at a certain time to a specified person.

A *draft* is an order, written by one person and addressed to another, directing him to pay a definite sum of money at a certain time to a specified third party.

A *check* is a draft for immediate payment, drawn upon a bank or banker.

In the case of a note, the person who promises to pay is called the *maker* of the note; and the person named to be paid, the *payee*.

In the case of a draft or check, the person ordering the payment is called the *drawer;* the person addressed, the *person drawn upon* or the *drawee;* and the person to be paid, the *payee*.

Negotiability.—The payee in any of these cases may wish to transfer the paper to some other person. For instance, the holder of the note may wish to use the

money before it is due, or the payee of a draft may wish to realize without going to the drawee. In either case, the desired accommodation can be secured only by selling the paper to some one else. This ability to be transferred is part of what is meant by the term *negotiability*.

But this liability to have to pay another person than the one named, cannot be imposed upon the maker or drawer without his consent. This he gives by inserting after the name of the payee the words "or order," or the words "or bearer." In the latter case, whoever holds the paper when it becomes due can collect upon it. In case the former words are used, the paper can be transferred only by *indorsement*, of which more anon.

A very important characteristic of negotiability is that it enables a person to grant to another rights which he may not himself possess. To illustriate: As between the maker and the payee, a note is a contract, and is binding only if it has all the requisites of a binding contract. Therefore, if there was no consideration, or if the note was obtained by fraud or by intimidation, the payee, knowing these facts, has no right to collect upon the note, and he could not by law compel payment. But with a third party it is different. He sees only the note, and may not—presumably does not—know anything else about the contract. To compel him before buying the note to learn all the details of its history, might be embarrassing to the parties, even where everything is all right, and would certainly delay, perhaps materially, the transfer. Therefore, to enable people to keep their business to themselves, and to facilitate transfers of commercial paper, it has seemed best not to require this investigation. The law presumes that when a person makes a transferable note, he

has done so deliberately; and if loss ensues, it says that he must bear it rather than the innocent purchaser of his note.

Conditions of Negotiability.—But this peculiar protection is given, be it observed, only to an *innocent purchaser*. If in good faith, in the regular course of business, a person comes into possession of commercial paper, negotiable in form, not yet mature, and for which he has given a reasonable consideration, he can collect on it. On the other hand, if he has found the paper or stolen it, or if he has bought it under circumstances calculated to raise a suspicion as to right of the seller, he should not have, and will not by law receive, this privilege. Thus if a man is offered commercial paper of perfectly responsible parties at one-third its value, it would be reasonable to suppose that the person offering it had found or stolen it, and the buyer would obtain only the rights of the person from whom he bought. Or if a note past due is offered for sale, the presumption is that it is paid or that it is for some reason uncollectable, and the purchaser would buy at his peril. In other words, *if there is anything on the face of the paper or in the circumstances of the case to warn the purchaser, he buys at his own risk*, and secures only such rights as the vendor has.

Transfer.—Negotiable paper with the words "or bearer" is transferable by delivery alone. If made payable to some person "or order," it is transferable only by his *indorsement*. An "indorsement in full" consists of the signature of the payee and his order that the money be paid to a specified person. An "indorsement in blank" consists simply of the signature of the payee. The effect of the latter mode of indorsing is to make the paper payable to bearer.

Responsibility of Maker.—A note being a contract, the maker of one is responsible to the payee, as has been said, only if all the requisites of a binding contract are present. If the note is negotiable in form, he is responsible to the innocent purchaser of it.

Responsibility of Drawee.—The person drawn upon may know nothing of the draft. He cannot be made a party to a contract without his knowledge and consent. That he may have knowledge of the draft, it must be presented to him. If upon seeing it he is willing to assume the responsibility of paying it when due, he signifies his willingness by writing across the face of the draft the word "accepted," with the date of presentation and his name. The draft thereby becomes his unconditional promise, and he becomes the principal debtor, occupying the position of a maker of a note.

Responsibility of Indorser.—When a person endorses any commercial paper, he not only expresses thereby his consent to the transfer of it, but he also enters into a conditional contract with each person who may afterward come into possession of the paper, whereby he becomes responsible for its payment, if the principal debtor fails to meet his obligation. To fix responsibility upon an indorser, payment must be demanded of the principal debtor on the very day when the obligation matures, and if payment is not made notice of the fact must be sent to the indorser before the end of the following day.

Responsibility of Drawer.—Between the drawer and the payee a draft is a conditional contract, whereby the former impliedly agrees to pay the draft if the person drawn upon does not. His obligation is that of a surety or first indorser. To fix responsibility upon the drawer, the holder of the draft must promptly pre-

sent it for acceptance to the person drawn upon; then, if it is not accepted, he must immediately notify the drawer.

Forged Paper.—Forgery is the fraudulent making or altering of a written instrument. One whose name is forged cannot be made responsible, since the act is not his. And since money paid under a mistake must be refunded, a person who, deceived by the skill of the forger, should pay the seeming obligation, would be entitled to get his money back.

But every person is bound to use reasonable effort to prevent forgery. Thus, if a merchant writes out a note all but the amount, and authorizes a clerk to put that in at some other time, and the clerk inserts a larger sum, any innocent purchaser can compel the merchant to pay the full amount. In some states it is held that a person who leaves space in an obligation wherein the amount can readily be raised, is bound to stand the loss caused by his negligence.

Accommodation Paper.—A man may be perfectly willing to lend a friend some money and yet be unable to do so. He may, however, in any one of several ways, make it possible for his friend to obtain the money. Thus A, wishing to accommodate his friend B, may make a note payable to B's order; or he may endorse B's note; or he may make a draft payable to B's order; or he may accept B's draft on him. By selling the paper, B secures the money desired. The implied contract between A and B is that B will pay the obligation.

In none of these cases could B compel A to pay him any money, because the contract between them lacks consideration. But A would be responsible to an innocent purchaser, because there is nothing on the face of the paper to indicate the defect. And he would be

responsible even to a purchaser who knows the paper to be accommodation, because by signing he binds himself to pay if B does not, and his signature is what enables the sale to be made.

Certified Checks.—Business men make most of their payments by check. If the receiver of a check does not, for any reason, wish the money, he may deposit the check in the bank as if it were cash. If he is going away from home, or if he wishes to make a payment in some other place, he may save the expense of a draft, and make a check equally as acceptable, by getting the cashier of the bank to "certify" it, that is to state officially that the drawer has the money in the bank. This he does by writing across the face of the draft the word "Good," with his signature as cashier. When this is done the responsibility rests primarily on the bank. It occupies the position of the acceptor of a draft.

Pertinent Questions.

Two of the following are valid notes; which two? The others are not; Why? 1. March 5, 1890, I promise to pay John Smith one hundred dollars, if he is then living.—William Jones. 2. On or before March 5, 1890, I promise to pay John Smith one hundred bushels of wheat.—William Jones. 3. On March 5, 1890, I promise to pay John Smith whatever is then due him.—William Jones. 4. When he comes of age, I promise to pay John Smith one hundred dollars.—William Jones. 5. March 5, 1890, I promise to pay one hundred dollars.—William Jones. 6. One year after date, I promise to pay to John Smith one hundred dollars.—William Jones. 7. Mankato, Minn., December 11, 1888. One year after date I promise to pay John Smith one hundred dollars. 8. On the death of his father, I promise to pay John Smith one hundred dollars.—William Jones. 9. On March 5, 1890, I, William Jones, promise to pay John Smith one hundred dollars.

How many parties may there be to a note? How many, at least, must there be? As between them, must there be consideration to make it binding? Must the words "for value received" appear on the note? A note being a contract, what things are necessary to make it binding? Write two valid notes in different forms. Write a negotiable note transferable

without indorsement. A note transferable by indorsement. Which is safer to carry in the pocket? Why? Which imposes the less responsibility if transferred? If you were taking a note payable to bearer, would you require the person from whom you were getting it to indorse it? A man has some non-negotiable notes; if he dies can his heir collect them? A note payable "to order" is indorsed in blank; to whom is it payable? May a note payable "to bearer" be made payable only "to order?" When does a note cease to be negotiable? Under what circumstances may a person have to pay a note which he has already paid? What is a "greenback?"

How many persons, at least, must there be to an accepted draft? When does the responsibility of the drawer begin? That of the person drawn upon? How does the acceptance of a draft affect the responsibility of the drawer? If the draft is not accepted, to whom shall the holder look for pay? Are drafts negotiable before acceptance?

Compare and contrast a note and a draft. A draft and a check. Is the bank under any obligation to the holder of an uncertified check? Does certifying a check release the drawer of it? Are checks negotiable?

What responsibility does an indorser assume in case of a note? Of an unaccepted draft? Of an accepted draft? Of a check? What does "without recourse" mean? To how many persons is the maker of a note responsible? The first indorser? The second? How can the first indorser be distinguished from the second? To whom is the second indorser not responsible?

Who are not responsible to the holder of a negotiable paper unless notified? Who are responsible without notice? What principle do you discover? When is a demand note due? A check? A time note? A sight draft? A time draft?

What should you do, and why, in the following cases:

1. When you pay a note? 2. When you make a partial payment on a note? 3. If you should lose a note? 4. If you have a note without indorsers, to render the maker responsible? 5. If you hold a note having indorsers, to render the indorsers responsible? 6. If you hold an unaccepted draft? 7. In case acceptance is refused? 8. If you hold an accepted draft? 9. If the acceptor fails to pay when the paper becomes due? 10. If you hold an uncertified check, in order to render the drawer responsible? 11. If it is indorsed, to make the indorsers responsible? 12. If you have a certified check, to make the bank responsible? 13. If you are a third indorser of a note, whom can you hold responsible in case the paper is dishonored, and how? 14. If you have a bearer note and you wish to transfer it without assuming responsibility? 15. How if it is an order note?

APPENDIX.

A.—FORMS.

TOWN BUSINESS.

I. Organization of a Town.

PETITION.

To the board of county commissioners of the county of , Minn.:

The undersigned, a majority of the legal voters of congressional township number north, of range number west, in said county, containing not less than twenty-five legal voters, hereby petition your honorable board to be organized as a new town under the township organization law, and respectfully ask that you forthwith proceed to fix and determine the boundaries of such new town and to name the same (giving the proposed name.)

(Dated, and signed by a majority of all the legal voters in the town.)

COMMISSIONERS' REPORT.

State of , county of , ss.

Upon receiving a petition of a majority of all the legal voters of congresional township number north, of range number west, in said county, asking that the same be organized as a new town under the township organization law, to be named , we, the county commissioners of said county did, on the day of A. D. 18 , proceed to fix the boundaries of such new town and name the same , in accordance with the said petition, and designated as the place for holding the first town meeting in such town, to be held on , 18 . The boundaries of said town of , as fixed and established by us, are as follows: (Beginning at the southeast corner of section , town north, of range west, thence west on the township line to the southwest corner of section , town and range as aforesaid, thence north, &c., giving the boundary lines complete.) Given under our hands this day of , 18 .

[Auditor's official seal.] (Signed by the Commissioners.)

Attest: O. J., County Auditor.

II. Elections.

NOTICE OF ANNUAL ELECTION.

Notice is hereby given, that on Tuesday, the day of November, 18 , at , in the election district composed of the , in the county of , and state of , an election will be held for (here name the state, judicial, congressional, legislative and county officers to be elected); (if constitutional amendments are to be submitted, add:) also the following amendments to the constitution of the state will be submitted to the people for their approval or rejection, viz.: amendment to section , article , of the constitution (naming each one proposed); (and if any special matters, such as removal of county seat, &c., are to be voted on, then specifically state them); which election will be opened at nine o'clock in the morning, and will continue open until five o'clock in the afternoon of the same day, at which time the polls will be closed.

Dated at this day of October, 18 .

C. O. S., Town Clerk (or City or Village Recorder.)

REGISTER POLL LIST.

List of qualified electors in the election district composed of the of , in the county of , and state of , for an election to be held in the said election district, on Tuesday, the day of November, 18 :

Adams, James	Little, Joseph
Babcock, George	Mann, Oscar.

(Write the surnames in alphabetical order, and leave sufficient space between the alphabetical letters to insert all additional names.)

Notice is hereby given that the undersigned judges of election of said election district, will be present at the , in said , at the times named below, for the purpose of making corrections in the foregoing list, viz.: On Wednesday, October , and (here insert the days and times of the day they are to meet), from 9 o'clock A. M. till 4 o'clock P. M. of each day, and also on the morning of election day, from 7 o'clock A. M. to 9 o'clock A. M.

Given under our hands this day of October, 18 .

(Signed by all the judges of election.)

MINUTES OF TOWN MEETING.

At the annual (special) town meeting held in the town of , county of , state of , at , on the day of , 18 , the meeting was called to order by R. G., town clerk. M. J. H. was then chosen to preside as moderator of the meeting.

The moderator, at the opening of the meeting, stated the business to be transacted and the order of the same as follows: That the business to be transacted would be to elect three supervisors, &c., (stating the officers to be elected,) and to do any other business proper to be done at said meeting.

That said business would be entertained in the following order: 1st—The election by ballot of town officers, the polls to be kept open throughout the day. 2d—At one o'clock P. M., election of overseers of highways for each road district in the town. 3d—That immediately following the election of overseers of highways the general business of the town would be taken up and proceeded with until disposed of.

Proclamation of opening the polls was then made by the moderator and the polls opened and the election of town officers proceeded.

The hour of one o'clock P. M. having arrived and the general business of the town being now in order, the following named persons were elected, by ayes and noes, overseers of highways for the ensuing year in the following road districts, viz.: (here give the numbers of the road districts and the names of the persons elected overseers thereof.)

A. B. was elected poundmaster of said town. On motion, ordered that a pound, &c., (give the location, cost, &c., of pound, if ordered.)

The following three places were determined and designated by the voters present as the most public places in said town for the posting up of legal notices, and suitable posts for such purpose were ordered to be erected or maintained by the supervisors at each of such places, viz.: (describe the places.)

The supervisors submitted to the electors a report of all the places at which guide posts are erected and maintained within the town, and of all places at which, in their opinion, they ought to be erected and maintained. Thereupon, it was ordered that guide posts be erected and maintained at the following places, viz.: (describe the places.)

The town clerk read publicly the report of the board of auditors, including a statement of the fiscal concerns of the town and an estimate of the sum necessary for the current and incidental expenses of the town for the ensuing year.

The supervisors rendered an account in writing, stating the labor assessed and performed in the town, the sums received by them for fines and commutation, &c.; a statement of the improvements necessary to be made on the roads and bridges, and an estimate of the probable expense of making such improvements beyond that of the labor to be assessed for this year, that the road tax will accomplish; also a statement in writing of all expenses and damages in consequence of laying out, altering or discontinuing roads.

On motion, it was ordered that the following sums of money be raised by tax upon the taxable property in said town for the following purposes for the current year: (enter the specific amounts carefully.)

On motion of H. S. H. H., the following by-law was adopted, ayes , noes : "It is hereby ordered and determined that it shall be lawful for horses, mules and asses to run at large in the town of , in the day time, from the first day of April to the 15th day of October, in each year, until further ordered."

On motion, it was resolved, &c., (set forth in order each resolution or order as it transpires.)

The next annual town meeting was ordered to be held at (naming the place.)

At five o'clock the polls were closed, proclamation thereof being made by the moderator. The judges then proceeded to publicly canvass the

votes, and the persons having the greatest number of votes for the respective offices voted for were declared elected.

STATEMENT OF RESULT OF CANVASS. (To be read publicly.)

The following is a statement of the result of the canvass of votes by ballot for the election of officers at the annual town meeting in the town of , county of , and state of , March , 18 , as publicly canvassed by the judges at said meeting:

H. B. had votes for chairman of supervisors.

J. L. had votes for chairman of supervisors.

H. B. was declared elected chairman of supervisors.

(In this way give a statement of the votes cast for each officer.)

On motion the meeting adjourned without day.

J. H. T., C. O. C., } Judges.

Attest: R. G., Clerk.

OFFICIAL OATH.

State of , county of , town of , ss.

I, J. A., do solemnly swear (or affirm) that I will support the constitution of the United States and of the state of , and faithfully discharge the duties of the office of of the town of , in the county of , and state of , to the best of my ability. J. A.

Subscribed and sworn to before me this day of A. D. 18

T. S., Justice of the Peace.

OFFICIAL BOND.

Know all men by these presents, that we, R. S., as principal, and B. B. S. and J. E. as sureties, all of the county of , and state of , are held and firmly bound unto J. D. E., E. C., and E. E., as supervisors of the town of , in said county, and their successors in office, in the sum of (five hundred) dollars, lawful money of the United States of America, to be paid to them as such supervisors, their successors or assigns; for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals dated the day of , 18 .

The condition of the above obligation is such, that whereas, the above bounden R. S. was, on the day of , A. D. 18 , duly elected (or appointed) in and for the town of , in said county, for the term of , and is about to enter upon the duties of said office; now, therefore, if the said R. S. shall, will and does faithfully discharge all his duties as such in and for said town, then the above obligation to be void, otherwise to remain in full force and virtue.

R. S. [Seal.]

Sealed and delivered in presence of B. B. S. [Seal.]

J. B. and G. J. J. E. [Seal.]

State of , County of , ss.

On this day of , A. D. 18 , before me, the subscriber, a in and for said county, personally appeared to me known to be

the person described in, and who executed the foregoing instrument, and acknowledged that he executed the same as free act and deed.

County of , ss. B. B. S. and J. E., being duly sworn, say each for himself, that he is surety in the within bond; that he is a resident and freeholder of the state of , and that he is worth the sum of (five hundred) dollars over and above his debts and liabilities, and exclusive of property exempt from execution. B. B. S. and J. E.

Subscribed and sworn to before me, this day of , 18 .

W. R. P., Justice of the Peace.

(After folding the instrument the approving officer must indorse on its back the following words:) "I hereby approve the within bond and the sureties therein contained, this day of , 18 ."

(Signed officially by the approving officer.)

NOTICE TO CLERK OF DISTRICT COURT OF ELECTION OF JUSTICE OF THE PEACE.

State of , county of , town of , ss.

To H. A. B., (address,) clerk of the district court of the county of

You are hereby notified that at the town meeting held in the town of , in the county of , and state of , on the day of March, A. D. 18 , P. E. C. was duly elected to the office of justice of the peace, for the term of two years. (If elected to fill a vacancy, state who was the last incumbent.) Given under my hand, this day of March, A. D. 18 . A. R., Town Clerk.

III. Roads.

PETITION.

To the supervisors of the town of , in the county of , and state of :

The undersigned, legal voters (who own real estate, or who occupy real estate under the homestead or pre-emption laws of the United States, or under contract from the state of , within one mile), (or who are freeholders and residents of the town within two miles) of the road to be laid out (or altered, or discontinued), hereby petition you to lay out a new road (or alter, or discontinue a road) as follows: Beginning (give the point at which it is to commence, its general course and its termination.)

The description of the lands over which the said (new) road passes, and the names of the owners thereof which are known, as well as the lands whose owners are unknown, are as follows: (Give the owners of the lands that are known and describe the lands whose owners are unknown.)

And your petitioners pray that you will proceed to lay out said new road and cause the same to be opened (or alter, or discontinue said road) according to law. Dated, and signed by at least six resident legal voters owning real estate or occupying United States or school lands within one mile, or at least eight resident freeholders within two miles of the road.)

PROOF OF POSTING.

State of , county of , town of , ss.

D. S. being sworn, says, that on the day of , 18 , he posted copies of the within petition in three of the most public places of said town, to-wit: At (naming the places.) D. S.

Subscribed and sworn to before me this day of , 18 .

E. W. R., Justice of the Peace.

SUPERVISORS' NOTICE OF HEARING.

Notice is hereby given that the supervisors of the town of , in the county of , and state of , will meet on the day of A. D. 18 , at o'clock in the noon, at , in said town, for the purpose of personally examining the route named below, proposed for a new (or altering, or discontinuing a) road, and for hearing all reasons for or against said proposed laying out (or altering, or discontinuance) and deciding upon said application. Said proposed new road (or alteration, or discontinuance) as described in the petition is as follows: (Here give the description of the route as contained in the petition.)

The several tracts of land through which said road will pass (passes) and the occupants thereof, as nearly as we can determine the same, are as follows: (Give a description of the lands and the names of the occupants, and if any have no occupants and the owners are unknown, state that fact.) (Dated, and signed officially by the supervisors.)

PROOF OF POSTING NOTICE.

State of , county of , town of , ss.

D. S. being sworn, says that on the day of , A. D. 18 , he served the within notice upon each of the occupants of the land through which the within described road may pass, by leaving copies as follows: To A. B. personally; to C. D. at his usual place of abode with E. F., a person of suitable age and discretion, (describing each service.)

That, also, on the day of A. D. 18 , he posted copies of the within notice in three public places in said town, to-wit: At (naming the places.) D. S.

Subscribed and sworn to before me this day of , 18 .

E. W. R., Justice of the Peace.

SUPERVISOR'S ROAD ORDER.

State of , county of , town of , ss.

Whereas, upon the petition of (six) legal voters, owning real estate, or occupying real estate under the homestead or pre-emption laws of the United States, or under contract from the state of , within one mile (or eight legal voters, freeholders and residents of the town, within two miles), of the road proposed in said petition to be laid out (altered or discontinued), copies of said petition having been first duly posted up in three of the most public places of said town at least twenty days before any action was had in relation thereto, proof of which posting was duly shown to us by affidavit; which said proposed new road (alteration or discontinuance) is set forth and described in said petition as follows, viz.: Beginning, etc., (set forth the road as given in the petition.)

And whereas, upon receiving said petition we did, within thirty days thereafter, make out a notice and fix therein a time and place at which we would meet and decide upon such application, to-wit: on the day of , A. D. 18 , at , causing copies of such notice to be posted in three public places in said town, at least ten days previous to such meeting; and having met at such time and place as above named in said notice, and being satisfied that the applicant had, at least ten days previous to said time, caused said notice of time and place of hearing to be given to all the occupants of the land through which such highway might pass, by serving the same personally or by copy left at the usual place of abode of each of said occupants, proof of which was shown by affidavit, we proceeded to examine personally such highway and heard any and all reasons for or against laying out (altering or discontinuing) the same, and being of the opinion that such laying out (or altering, or discontinuing,) was necessary and proper and that the public interest would be promoted thereby, we granted the prayer of said petitioners and determined to lay out (alter or discontinue) said road, the description of which as so laid out is as follows, to-wit: Beginning, &c.

It is therefore ordered and determined that a road be and the same is hereby laid out (or altered) and established according to the description last aforesaid, and it is hereby declared to be a public highway, four rods wide, the said description above given being the center of said road. Given under our hands this, &c., (dated and signed officially by the supervisors.)

SURVEYOR'S REPORT.

To the supervisors of the town of , county of , and state of :

The undersigned having been employed by you to make a survey of a road in said town would report that the following is a correct survey thereof, as made by me under your directions, to-wit: (Give an accurate description of the road by course and distance) and that below is a correct plat of said road according to said survey. (Dated and signed.)

RELEASE OF DAMAGES.

State of , county of , town of , ss.:

Whereas, a road was laid out (or altered or discontinued) on the day of , A. D. 18 , by the supervisors of the said town of , on the petition of (six) legal voters, owning real estate, or occupying real estate under the homestead or pre-emption laws of the United States, or under contract from the state of , within one mile (or eight legal voters freeholders and residents of the town within two miles) of said road; which said road (or alteration, or discontinuance) is set forth and described in the supervisors' order, as follows, viz.: Beginning (describe the road as in the order laying it out); which said road passes through certain lands owned by us as described below:

Now, therefore, know all men by these presents, that we, the owners of the lands described below, for value received, do hereby * release all claims to damages sustained by us by reason of the laying out (or altering, or discontinuing) and opening said road through our lands, viz.: (Here give a description of the lands and their owners' names.)*

In witness whereof, we have hereunto set our hands and seals this day of , A. D. 18 . (Signatures and seals.) Signed, sealed and delivered in presence of two witnesses.

AGREEMENT AS TO DAMAGES.

(Use form "Release of Damages" to the * then substitute to the next * as follows:) do hereby "agree to and with the said supervisors that the damages sustained by us by reason of laying out (or altering, or discontinuing) said road be ascertained and fixed, and the same are hereby ascertained and fixed as follows: (Describe the lands, give the owners' names, and the amounts agreed on;" and conclude as in form "Release of Damages.")

AWARD OF DAMAGES.

State of , county of , town of , ss.:

Whereas, a road was laid out (or altered or discontinued) on the day of , A. D. 18 , by the undersigned supervisors of the said town of , on the petition of (six) legal voters, owning real estate, or occupying real estate under the homestead or pre-emption laws of the United States, or under contract from the state of , within one mile (or eight legal voters, freeholders and residents of the town within two miles) of said road; which said road (or alteration, or discontinuance) is set forth and described in the supervisors' order as follows, viz.: Beginning (describe the road as in the order laying it out.) And not being able to agree with the owners of the following described lands, claiming damages by reason of said highway passing through, we have assessed the damages to each of such individual claimants with whom we could not agree, and awarded damages to the owners of such lands through which such highway passes as are unknown, at what we deemed just and right; taking into account and estimating the advantages and benefits the road will confer on the claimants and owners, as well as the disadvantages. We have assessed and awarded damages as follows:

(Here give a particular description of each tract of land and its owner, if known; but if not known, state that fact also.)

And in case of the following lands and claimants for damages, we estimate that the advantages and benefits said road will confer on them are equal to all damages sustained by them by reason of laying out (or altering, or discontinuing) said road, to-wit: (Set forth lands and owners as far as known; and describe the unknown lands, stating that the owners are unknown.) (Dated, and signed by the supervisors.)

APPLICATION FOR JURY.

State of , county of , town of , ss.

To J. P., justice of the peace in and for said county:

I, J. A. B., of said town, feeling myself aggrieved by the determination (award of damages) made by the supervisors of said town (county commissioners of said county) by their order bearing date the day of , A. D. 18 , in laying out (altering or discontinuing) (or refusing to lay out, alter or discontinue) a highway in said town (county), do hereby appeal to you for a jury to be summoned by you to hear and determine such appeal.

The highway (alteration or discontinuance) in question is described in

said order, filed in the town clerk's (county auditor's) office of said town (county) , A. D. 18 , as follows: (describe the road, as in the order on file), which said road passes through lands owned by me, viz.: (describing them.)

The grounds upon which this appeal is brought, are: (to recover $80 damages to my said land by reason of such laying out, instead of $40 as awarded in said order) (or, in relation to the laying out, or altering, or discontinuing said highway;) (or their refusal to lay out, or alter, or discontinue said highway;) (or said appeal is brought to reverse entirely the decision of the said supervisors or commissioners;) (or is brought to reverse that part of their order [specifying which part,] &c.) (Dated and signed by the appellant.)

JUSTICE COURT.

I. Civil Suit.

SUMMONS.

State of
County of } ss. (*a*)

The state of to the sheriff or any constable of said county:

You are hereby commanded to summon A. M., if he shall be found in your county, to be and appear before the undersigned, one of the justices of the peace in and for said county, on the day of , 18 , at o'clock in the noon, at my office in the , in said county, to answer to J. T. in a civil action; and have you then and there this writ.

Given under my hand this day of , A. D. 18 .

W. D. D., Justice of the Peace.

CONSTABLE'S RETURN.

(*Venue as in Summons.*)

I hereby certify that I personally served the within summons upon the within named defendant, by reading the same to him, in said county, on the day of , 18 .

Fees—Mileage, 8 miles, - -	.80
Service, - - - - -	.15
	.95

G. M. G., Constable.

COMPLAINT.

State of
County of } ss. (*b*)

In Justice Court,
Before W. D. D., Justice of the Peace.

J. T., plaintiff,
against
A. M., defendant.

The complaint of the plaintiff shows to this court that at , in the state of , on the day of , 18 , the defendant made his

(*a*) This brace of lines, giving the state and county as introductory to a process, certificate, affidavit or other paper, is called a "venue," and should be inserted wherever the word (*Venue*) is expressed in forms given hereafter.

(*b*) All the affidavits, pleadings, and other papers filed by parties in an action should be "entitled," that is to say, should begin with a caption

promissory note in writing, dated on that day, and thereby promised to pay to the plaintiff (one year after date) the sum of (eighty) dollars, for value received, with interest thereon from the said date at the rate of (ten) per cent. per annum until fully paid, and delivered the same to the plaintiff.

That the plaintiff is now the holder and owner of said note; that the same has not been paid, nor any part thereof; but the defendant is now justly indebted to the plaintiff thereon in the sum of (eighty) dollars, with interest as aforesaid.

Wherefore, the plaintiff demands judgment againt the defendant for the sum of (eighty-nine) dollars and (sixty) cents, with costs of suit.

J. T.

(*Venue.*)

J. T., the plaintiff (or defendant) in this action, being duly sworn, says that the foregoing complaint (or answer, or reply,) is true, to his own knowledge, except as to those matters stated on his information and belief, and as to those matters, that he believes it to be true. J. T.

(*Jurat.*)

ANSWER.

(*Title of cause.*)

The answer of the defendant to the complaint herein, shows to this court:

1. That he admits the making and delivering of the note therein stated, but denies each and every other allegation therein contained.

2. And for a further defense this defendant shows that on the day of , 18 , he bought (a horse) of the plaintiff for the sum of (one hundred and thirty) dollars, and paid him (fifty) dollars in money, and the note of (eighty) dollars described in the complaint; which (horse), by the contract of sale, the plaintiff warranted to the defendant to be sound; and the defendant further states that the said (horse) was unsound at the time, whereby the defendant sustained damage in the sum of (one hundred) dollars.

Wherefore he asks that said amount of damage be set off against the amount of said note, and demands judgment for the balance of (twenty) dollars, besides costs of suit. A. M.

(*Verified.*)

REPLY.

(*Title of cause.*)

The reply of the plaintiff to the facts set forth in the answer of the defendant, denies each and every allegation therein contained. J. T.

(*Verified.*)

ADJOURNMENT.

(*Title of cause.*)

(*Venue.*) A. M., being duly sworn, says, that he is the defendant in this action; that J. C. S., who resides in the town of , in said county, is a

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similar to the above, giving the state and county, name of justice, and the names of the parties, plaintiff and defendant, to the action. This caption (*title of cause*) is to be inserted in every form given hereafter, wherever it is so expressed.

material witness for this defendant, without whose testimony he cannot safely proceed to the trial of this action; that the said J. C. S., if examined as a witness on the trial, will testify that he was present at the time the horse mentioned in the answer was purchased, and heard the plaintiff say to the defendant, "the horse is sound, and I warrant him so;" that he heard this defendant reply, "well, I shall rely entirely upon your warranty;" and that thereupon defendant gave his note for the balance of the purchase money of the horse.

That on the day of , 18 , he procured a subpœna for the said J. C. S., and went with the same to his residence to serve the same, when he there learned for the first time that said J. C. S. had unexpectedly left home the day before and had gone to , in the state of , to be absent (three) weeks. That he knows of no other person by whom he can prove these facts; and that he expects to be able to procure the attendance of said J. C. S. as a witness on the trial, if this cause is adjourned for (thirty) days. A. M.

(*Jurat.*)

SUBPŒNA.

State of , } ss.
County of }

The State of to J. K., J. L. and G. G.:

You are hereby required to appear before the undersigned, one of the justices of the peace in and for said county, at my office in the town of , on the day of , 18 , at o'clock in the noon of said day, to give evidence in a certain cause then and there to be tried between J. T., plaintiff, and A. M., defendant, on the part of the plaintiff (or defendant.)

Given under my hand this day of , 18 .

W. D. D., Justice of the Peace.

ATTACHMENT AGAINST WITNESS.

(*Venue.*)

The State of to the sheriff or any constable of said county:

You are hereby commanded to attach the body of S. K. B., if he shall be found in your county, and bring him forthwith before the undersigned, one of the justices of the peace in and for said county, at my office in the town of , in said county, to give evidence in a certain cause now pending before me, between J. T., plaintiff, and A. M., defendant, on the part of the defendant (or plaintiff); and also to answer all such matters as shall be objected against him, for that the said S. K. B., having been duly subpœnaed to attend at the trial of said action, had refused (or failed without just cause) to attend, in conformity to said subpœna; and have you then and there this writ.

Given under my hand, etc. W. D. D., Justice of the Peace.

CONSTABLE'S JURY LIST.

(*Title of cause.*)

List of names of (twenty-four) inhabitants of the county of , qualified to serve as jurors in the district court of said county, made by me as

directed by said justice of the peace, from which to impanel a jury in the above entitled cause. G. W., Constable.

Dated, etc.

John J. Cooke, X	Wm. W. Wertsel,
Allan K. Ware,	X Daniel G. Pratt,
X Jared S. Benson,	Horace S. Roberts, X
Walter G. Brown,	J. W. Everstine,
George W. Jones,	Aaron M. Ozmun,
Elias Bedall,	X Ole T. Ruhd,
Erick Peterson,	Lars Anderson,
Patrick Kelly, X	Conrad Schacht,
X Thomas O. Jones,	O. P. Whitcomb,
Julius Graetz,	X J. Q. Leonard,
John Shannon, X	Zera Fairman, X
X David F. Lamb,	Russell Blakely. X

☞ Names struck off by plaintiff checked on the right; by defendant checked on the left. W. D. D., Justice of the Peace.

VENIRE.

State of
County of } ss.

The State of to the sheriff or any constable of said county:

You are hereby commanded to summon (here insert the names in full), to be and appear before the undersigned, one of the justices of the peace in and for said county, on the day of , 18 , at o'clock in the noon of said day, in the (town) of , in said county, to make a jury for the trial of a civil action between J. T., plaintiff, and A. M., defendant, and have you then and there this writ.

Given under my hand this day of , A. D. 18 .

W. D. D., Justice of the Peace.

RETURN.

(*Venue.*)

I hereby certify that, by virtue of the within writ, I have personally summoned as jurors the several persons named therein, viz.: (give the list served; and if any are not served, add): and that the following named persons could not be found (giving their names.)

Dated this day of , 18 . G. W., Constable.

Fees, etc.

WARRANT FOR JUROR.

State of
County of } ss.

The State of to the sheriff or any constable of said county:

Whereas, on the day of , A. D. 18 , a venire was duly issued by the undersigned, one of the justices of the peace of the said county, in the case of J. T. *vs.* A. M., then pending before me as such justice; and, whereas, one E. F. was duly named as juror therein, and said venire was duly served upon said E. F. by G. H., a constable of said county; and, whereas, the said E. F. failed to appear as such juror, or to render any reasonable excuse for his default, as appears from the return of said constable, and from my docket; now, therefore, you are hereby commanded forthwith to apprehend the said E. F. and bring him before me to show

cause why he should not be fined for contempt in not obeying said writ, and to be further dealt with according to law.

Given under my hand, etc. W. D. D., Justice of the Peace.

DOCKET.

(With oral pleadings, jury trial, execution, etc.)

State of , } ss.
County of , }

In Justice Court.
Before W. D. D., Justice of the Peace.

J. T., Plaintiff,
against
A. M., Defendant.

PLAINTIFF'S COSTS.

Justice's Fees.

Summons	$ 25
Complaint	15
Answer	15
Reply	15
Adjournment	15
Oath, 2d adjt	15
2d adjournment	15
Filing two papers	10
3d adjournment	15
Swearing jury	25
Oath, nine witnesses	1 35
Oath, officer	15
Judgment	25
Taxing costs	15
	$3 55

Constable's Fees.

On summons	$1 10
Jury list	15
Summoning jury	1 00
1 day's att. court	1 00
Attending jury	50
	$3 75

Plaintiff's Witnesses.

W. A., att. and mil	$1 48
L. D., " "	1 24
Z. S., " "	1 12
J. B., " "	1 36
	$5 20
	$12 50

August 1, 1887.—Summons issued, returnable August 9, 1887, at 1 o'clock P. M.

August 5.—Summons returned by Constable S. (Here give the return of the officer.)

August 9, 1 P. M.—Parties appeared and joined issue. Plaintiff complained orally upon a promissory note, and delivered the same to the court, and stated that there was due him $80 and interest thereon, which he claimed to recover of defendant; verified the same. Defendant answered orally, alleging that said note was given for a horse, which horse was warranted to be sound, whereas, in fact, it was unsound, claiming $100 damages thereby; verified. Plaintiff replied orally, denying the warranty; verified. Plaintiff then applied for an adjournment, and the suit was adjourned to August 16, 1887, at 1 P. M., at my office.

August 16, 1 P. M.—Parties appeared, and defendant applied for an adjournment of thirty days, to obtain material witness, and having shown cause therefor, upon oath, the suit was adjourned to September 16, 1887, at 1 P. M., at my office.

September 16, 1887, 1 P. M.—Parties appeared, and defendant demanded a jury of twelve persons, paying their fees. Venire issued and delivered to Constable G. W. Cause adjourned to September 17, 1887, at 1 P. M., at my office, to give time to summon the jury, and for them to appear.

September 17, 1 P. M.—Parties appear. Two of the jurors not appearing, G. D. and E. F. were summoned as talesmen. The following jurors were sworn: (Give the list.) The following witnessss were sworn for the plaintiff: (Note in order in the docket all exceptions taken to any testimony.) The following witnesses were sworn for the defendant, etc. The following witnesses were sworn in rebuttal, etc. (All exceptions to rulings of the court are to be noted in the docket in order whenever they occur.)

September 17, 5 P. M.—After hearing the testimony, the jury retire, under charge of Constable G. W., sworn for that purpose.

6 P. M.—Jury returned into court, and say that they find for the plaintiff for the sum of $86.00.

Judgment rendered thereupon against the defendant for $86.00 and costs of suit, taxed at $12.50, on this 17th day of September, 1887.

W. D. D., Justice of the Peace.

September 29, 1887.—Execution issued for $86.00, and interest from September 17, and for $12.50 costs, and delivered to Constable G. W. to collect.

W. D. D., Justice of the Peace.

October 11.—Execution returned satisfied.

W. D. D., Justice of the Peace.

October 15, 1887.—Received the above judgment and costs in full.

J. T., Plaintiff.

OATH TO JURORS.

"You do solemnly swear that you will well and truly try the matters in difference between the parties in this cause, and a true verdict give, according to the evidence given you in court and the laws of this state. So help you God."

OATH TO WITNESS.

"You do solemnly swear that the evidence you shall give relative to the cause now under consideration shall be the whole truth, and nothing but the truth. So help you God."

OATH TO OFFICER.

"You do solemnly swear that you will keep this jury together in some suitable place, without food or drink, unless ordered by the court; that you will suffer no person to speak to them upon the matters submitted to their charge until they are agreed, nor will you speak to them yourself about the cause, except to ask them whether they are agreed; that you will permit no person to listen to, or overhear, any conversation or discussion they may have while deliberating on their verdict; that you will not disclose their verdict nor any conversation they may have respecting the cause, until they have delivered their verdict in court, or been discharged by order of the court. So help you God."

EXECUTION.

State of ,
County of , } ss.

The state of to the sheriff or any constable of said county:

Whereas, judgment against A. M. for the sum of (eighty-six) dollars, lawful money of the United States, and for (twelve) dollars and (fifty) cents, costs of suit, was recovered the day of , 18 , before me, at the suit of J. T.; these are therefore to command you to levy distress on the goods and chattels of the said A. M. (excepting as the law exempts), and make sale thereof according to law, in such case made and provided, to the amount of the said sum, together with twenty-five cents for this execution, and the same return to me within thirty days, to be rendered to the said J. T. for his said judgment and costs. Hereof fail not, under penalty of the law.

W. D. D., Justice of the Peace.

ENDORSEMENTS ON EXECUTION.

IN JUSTICE COURT.
COUNTY OF.....

J. T., plaintiff,
against
A. M., defendant.

EXECUTION.

Collect judgment $66 00
Costs..... 12 50
$66 50

Interest thereon at seven per cent. from Sept. 17, 1887, and your fees.
W. D. D., Justice of the Peace.

Received the within execution Sept. 29, 1887.
G. W., Constable.

(See constable's return.)

RETURN OF EXECUTION.

(*Venue.*)

By virtue of the within execution, on this first day of October, 1887, I have levied on one bay horse about seven years old, one single harness, and one single buggy, the property of the said A. M. G. W., Constable.

CONSTABLE'S SALE.

(*Venue.*)

By virtue of an execution issued by E. M., justice of the peace, against the goods and chattels of A. M., I have seized and taken the following described property, to-wit: (describing it), which I shall expose for sale at public vendue to the highest bidder, on Tuesday, the eleventh day of October, 1887, at ten o'clock A. M. (in front of the postoffice), at , in said county. G. W., Constable.

Dated Oct. 1, 1887.

FINAL RETURN.

(*Venue.*)

I hereby certify that, by virtue of the within execution, on the first day of October, 1887, I levied on the goods and chattels in the annexed inventory named, the property of said A. M., and on the first day of October, 1887, I advertised the said property for sale by posting up in three public places in the election district where it was to be sold, to-wit, in the town of , three notices describing said property, and giving notice of the time and place, when and where the same would be exposed for sale; that at the time so appointed (naming it), I attended at the place mentioned in said notice (naming the place), and then and there exposed the said goods and chattels to sale at public vendue to the highest bidder; and sold the said horse to John Smith, for $76; the harness to Edward White, for $13.50; and the buggy to Samuel Jones, for $23.40, they being the highest bidders therefor; that I have retained $4.16, my fees and disbursements, from said amount, and have applied $86.40 in payment of the within execution, which is hereby returned fully satisfied. G. W., Constable.

(Dated and signed.)

II. Criminal Prosecutions.

OATH TO COMPLAINANT.

"You do solemnly swear that you will true answers make to such questions as shall be put to you touching this complaint against R. F. So help you God."

CRIMINAL COMPLAINT.

State of ,
County of , } ss.

The complaint of J. D., of said county, made before A. J. S., Esq., one of the justices of the peace in and for said county, who, being duly sworn, on his oath says, that on the day of , 18 , at the of , in said county, one R. F. did * threaten to beat (or wound, or maim, or as the case may be) him, the said J. D., and to do him great bodily harm; (or to burn his dwelling-house; or as the case may be); and that he has great cause for fear the said R. F. will beat, etc., (as above.) The said J. D., therefore, prays surety of the peace to be granted him against the said R. F., and this he does, not from any private malice or ill-will towards the said R. F., but simply because he is afraid, and has good cause to fear, that the said R. F. will beat, etc., (as above), against the form of the statute in such case made and provided, and against the peace and dignity of the state of Minnesota, * and prays that the said R. F. may be arrested and dealt with according to law.

J. D.

(*Jurat.*)

A. J. S., Justice of the Peace.

WARRANT.

State of ,
County of , } ss.

The State of to the sheriff or any constable of said county:

Whereas, J. D. has this day complained in writing to me, on oath, that R. F., on the day of , 18 , at in said county, did (insert the statement of the offense, as in the complaint); and prayed that the said R. F. might be arrested and dealt with according to law; Now, therefore, you are commanded forthwith to apprehend the said R. F., and bring him before me, to be dealt with according to law; and you are also commanded to summon A. B., C. D., and E. F., material witnesses in said complaint, to appear and testify concerning the same.

Given under my hand this day of , A. D. 18

A. J. S., Justice of the Peace.

RETURN ON WARRANT.

(*Venue.*)

I hereby certify that by virtue of the within warrant I have arrested the within named defendant, and have him now before the court in custody.

(Fees, etc.) (Dated.) J. N., Constable.

RECOGNIZANCE.

State of ,
County of , } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, of , in said county, acknowledge ourselves to owe and be indebted unto the state of

Minnesota in the sum of (two hundred) dollars, to be levied of our several goods and chattels, lands and tenements, to the use of said state, if default be made in the condition following, to-wit:

The condition of this recognizance is such, that if the above bounden R. F. shall and does keep the peace, and be of good behavior, for the period of (three months) from the date hereof, towards all the people of this state, and particularly towards J. D., then this recognizance to be void; otherwise of force.

R. F.
J. B.
L. O.

Taken and acknowledged before me, etc.

A. J. S., Justice of the Peace.

COMMITMENT.

State of ,}
County of ,} ss.

The State of to the sheriff or any constable, and to the keeper of the common jail of said county:

Whereas, R. F. was, on the day of , 18 , brought before the undersigned, one of the justices of the peace in and for said county, charged, on the oath of J. D., with having, on the day of , 18 , at , in the said county (here state the offense as charged in the warrant), and upon examination of the said charge, it appearing to me that there is just cause to fear that such offense will be committed by the said R. F., he was ordered to enter into a recognizance, with sufficient sureties in the sum of ($200), to keep the peace toward all the people of this state, and especially toward the said J. D., for the term of (three) months; and the said R. F. having refused (or failed, or neglected,) to comply with such order: Now, therefore, you, the said constable, are commanded forthwith to convey and deliver into the custody of the said keeper the body of the said R. F., and you, the said keeper, are hereby commanded to receive the said R. F. into your custody in the said jail, and him there safely kept for the term of (three) months from the date hereof, or until he so recognizes as aforesaid, or until he shall thence be discharged by due course of law.

Given under my hand this day of , A. D. 18

J. P., Justice of the Peace.

JAILER'S RECEIPT.

(*Venue.*)

I hereby certify that I have received into my custody the within named R. F., and have lodged him in the common jail of said county, as within commanded. Dated, etc.

L. S. P., Sheriff, by G. S., Deputy.

CONSTABLE'S RETURN.

(*Venue.*)

I hereby certify that by virtue of the within warrant I have delivered the within named R. F. to the keeper of the common jail of the said county, as appears by his receipt indorsed hereon.

Dated, etc.

T. B., Constable.

Fees, etc.

III. Miscellaneous.

COMPLAINT FOR SEARCH WARRANT.

(Follow form "Criminal Complaint" to the *, then say): Divers goods and chattels, viz.: (describing them particularly, and their value,) were feloniously stolen, taken and carried away; and that the said C. W. has good reason to believe, and does believe, that the said goods and chattels are concealed in the (dwelling-house) of one J. S., situated in the (town) of , in said county (particularly describing the place), and that the grounds of his said belief are as follows: (here state the facts and circumstances on which his belief is founded.) He, therefore, prays that a warrant may issue to make search for said goods and chattels in said (dwelling-house) of the said J. S., according to the statute in such case made and provided. C. W.

(*Jurat.*)

SEARCH WARRANT.

(Use the general form of warrant, except in the concluding sentence say): Now, therefore, you are commanded forthwith to enter the (dwelling-house) of one J. S., situated, etc., (particularly describing the place), and there make search for the above described property (or, as the case may be); and if the same, or any part thereof, shall there be found, you are hereby commanded to bring the same, together with the person(s) in whose possession the same may be found, before me, to be dealt with according to law.

Given under my hand, etc. A. J. S., Justice of the Peace.

Probate Court.

PETITION FOR ADMISSION OF WILL.

State of , } ss. In Probate Court.
County of }

To the Judge of said Court:

The petition of of said , respectfully represents that late of , deceased the day of , at , died testate, as petitioner believe ; that the instrument in writing herewith presented to this court, is the last will and testament of said deceased as petitioner believe ; and that the said petitioner the identical named and appointed in and by said last will and testament as executor thereof; that the heirs at law of said deceased are

Your petitioner would further represent, that the goods, chattels and personal estate of said deceased amount to about dollars; and that the said deceased left debts due and unpaid to the probable amount of dollars.

Your petitioner would pray that a day be appointed for hearing the proofs of said last will and testament, and that public notice thereof be given to all persons interested, as this court shall direct; and that upon the proof and allowance of said will, and the approval of the bond of your

petitioner , letters testamentary be to issued thereon, and appraisers and commissioners appointed, according to the rules and practices of this court.

Dated at , this day of , A. D. 18 .

State of , } ss.
County of }

On this day of , A. D. 18 , before me personally appeared the above named and made oath that ha heard read the above and foregoing petition, subscribed by and know the contents thereof, and that the same is true of own knowledge, except as to the matters which are therein stated to be on information and belief, and as to those matters he believe it to be true.

ORDER ADMITTING WILL.

State of , } ss. In Probate Court.
County of } Term, 18

In the matter of the estate of , deceased.

Pursuant to an order of this court made in the above entitled matter, on the day of , 18 , the hearing of the proofs of that certain instrument bearing date the day of , 18 , purporting to be the last will and testament of , deceased, came on this day; and it appearing to the satisfaction of the court that the notice directed in the order aforesaid to be given, has been given; thereupon and , the subscribing witnesses to said instrument, were duly sworn and examined on behalf of the proponent thereof, their testimony reduced to writing, subscribed by them, and filed. And it appearing to the court after a full hearing and examination of the testimony in said matter, that said died on the day of , 18 , testate, in the said county of , and that he was at the time of his death a resident of said county, and left assets therein; that said instrument offered for probate as and for the last will and testament of said deceased, was duly executed as his last will and testament by said testator according to law; that said testator, at the time of executing the same, was of sound mind, of lawful age and under no restraint, and that the same is valid and genuine; and no adverse appearance or objection being made:

Now, therefore, it is ordered, adjudged, and decreed, that said instrument be and hereby is established and allowed as the last will and testament of said , deceased, and that the same hereby is admitted to probate. Ordered, further, that said last will and testament, with a certificate of the probate thereof, be recorded.

Judge of Probate.

CERTIFICATE OF PROOF OF WILL.

State of , } In Probate Court.
County of }

In the matter of the estate of , deceased:

Be it remembered, that on the day of the date hereof, at a term of said probate court, pursuant to notice duly given, the last will and testament of , late of said county of , deceased, bearing date the day of , 18 , and being the annexed written instrument,

was duly proved before the probate court in and for the county of aforesaid; and was duly allowed and admitted to probate by said court according to law, as and for the last will and testament of said , deceased, which said last will and testament is recorded and the examination taken thereon filed in this office.

In testimony whereof, the judge of the probate court of said county hath hereunto set his hand and affixed the seal of the said court, at in said county, this day of , A. D. 18

Judge of Probate.

LETTERS TESTAMENTARY.

State of , } ss.
County of }

The State of , to all to whom these presents shall come or may concern, and especially to of the county of and state of , greeting:

Know ye, that whereas, late of the county of and state of , lately died testate, and being at the time of his decease a of said county, by means whereof the proving and recording his last will and testament, and granting administration of all and singular the goods, chattels, rights, credits and estate whereof he died possessed, and also the auditing, allowing and finally discharging the account thereof, is within the jurisdiction of the probate court of said county of

And whereas, on the day of , A. D. 18 , at in said county, before the Hon. probate judge of said county, the last will and testament of the said (a copy whereof is hereunto annexed) was proved, allowed and admitted to probate: And, whereas, , executor named and appointed in and by said last will and testament, ha given bond, as required by law, for the faithful execution of said trust, which said bond has been approved by said judge, and filed in the aforesaid probate court; we therefore, reposing full confidence in your integrity and ability, have granted and by these presents do grant the administration of all and singular the goods, chattels, rights, credits and estate of the said deceased, and any way concerning his said last will and testament, unto you, the said executor aforesaid: Hereby authorizing and empowering you to take and have possession of all the real and personal estate of said deceased, and to receive the rents, issues and profits thereof, until said estate shall have been settled, or until delivered over by order of said court, to the heirs or devisees of said deceased; and to demand, collect, recover and receive all and singular, the debts, claims, demands, rights, and choses in action, which to the said deceased while living and at the time of his death did belong; and requiring you to keep in good tenantable repair, all houses, buildings and fences on said real estate, which may and shall be under your control, and in accordance with your bond approved and filed as aforesaid, to make and return into the probate court of said county of within three months, a true and perfect inventory of all the goods, chattels, rights, credits and estate of said deceased, which shall come to your possession or knowledge, or to the possession of any other person for you; to administer, according to law, and to said last will and testament, all the goods, chattels, rights, credits and estate of the said deceased, which shall at any time come to your possession or to the possession of any other

person for you, and out of the same to pay and discharge all debts, legacies and charges chargeable on the same, or such dividends thereon as shall be ordered and decreed by said court; to render a just and true account of your administration to said court within one year, and at any other time when required by said court, and to perform all orders and decrees of said court, by you to be performed in the premises.

In testimony whereof, we have caused the seal of our probate court to be hereunto affixed: Witness the Hon. , judge of probate, at , in said county, this day of , A. D. 18 .

Judge of Probate Court,
County of , .

FORM OF WILL.

I, (name of testator), of (residence), being of sound mind and memory, do hereby make, publish, and declare this to be my last will and testament, hereby revoking and making void all former wills by me at any time heretofore made.

First.—I order and direct my executors, as soon after my death as possible, to pay off and discharge all debts and liabilities that may exist against me at the time of my decease.

Second.—I give and bequeath unto my wife, (naming her, and specifying property bequeathed.)

Third.—I give and bequeath unto my son, (naming him, and specifying property bequeathed.)

And so on for each legacy.

Fourth.—I hereby nominate and appoint (naming the person or persons) as the executors of this, my last will and testament.

In witness whereof, I have hereunto subscribed my name, this day of , A. D. Autograph signature of testator.

The above and foregoing instrument was at the date thereof signed, sealed, published, and declared, by the said (name of testator), as and for his last will and testament, in presence of us, who, at his request, and in his presence, and in the presence of each other, have subscribed our names as witnesses.

Name , Residence.
Name , Residence.

For citations, pupils should watch the newspapers and make clippings.

District Court.

HABEAS CORPUS.

State of , County of } ss. District Court, Judicial District.

The State of to

You are hereby commanded to have the body of , by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said shall be called or charged, before the Honorable , judge of the district court, to do and receive what shall then and there be considered concerning the said . And have you then and there this writ.

Witness the Honorable , judge of said district court, at in said county, this day of , A. D. 18 Clerk.

INDICTMENT.

State of , County of } ss. District Court, Judicial District.

The State of against , accused by the grand jury of the county of , in the state of , by this indictment of the crime of , committed as follows:

The said , on the day of , A. D. 18 , at the city of , in the county of , and state of , did, without the authority of law, and with malice aforethought, , contary to the form of the statute in such case made and provided, and against the peace and dignity of the state of .

Dated at the city of , in the county of , and state of , this day of , A. D. 18 .

A. L. H., Foreman of the Grand Jury.

Names of witnesses examined before the grand jury:

B. F. H., R. D. H., A. F. B., E. S., H. P. C., L. H.

NATURALIZATION PAPERS.

(*First Paper.*)

State of , County of } ss.

I, , do solemnly declare on oath to , clerk of the district court of the county of , and state of , that it is bona fide my intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly to the sovereign of , whereof I was heretofore a citizen or subject. (Signed.)

Subscribed and sworn to before me this day of , A. D. 18

Clerk of said Court.

State of , County of } ss.

I hereby certify that the foregoing is a true copy of the original declaration of , this day filed in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the district court aforesaid, at , this day of , A. D. 18

Clerk.

(Second Paper.)

State of , } ss. District Court.
County of Judicial District.

Be it remembered, that on this day of , 18 , appeared in the district court of the judicial district of the State of , and for the county aforesaid, the said court being a court of record, having a common law jurisdiction and a clerk and seal, and applied to said court to be admitted to become a citizen of the United States of America, pursuant to the several acts of congress of the United States of America for that purpose made and provided; and the said applicant having thereupon produced to the court such evidence, declaration and renunciation, and having taken such oaths as are by the said acts required: Thereupon it was ordered by the said court that the said applicant be admitted, and he was accordingly admitted by the said court to be a citizen of the United States of America.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the court aforesaid, this day of , A. D. 18

Clerk of said Court.

SATISFACTION OF JUDGMENT.

State of , } ss. District Court,
County of Judicial District.

(Title of Cause.)

The judgment in the above entitled action, rendered in county, , on the day of , A. D. 18 , and duly docketed in the office of the clerk of the district court of said county, on the day of , A. D. 18 , for $ in favor of against , is paid and satisfied in full; and the clerk of said court is hereby authorized to discharge said judgment of record.

In testimony whereof, ha hereunto set hand and seal this day of , A. D. 18 .

Signed, sealed and delivered in presence of } [Seal.] [Seal.] [Seal.]

State of , } ss.
County of

On this day of , A. D. 18 , before me, the subscriber, a in and for said county, personally appeared to me known to be the person described in, and who executed the foregoing instrument, and acknowledged that he executed the same as free act and deed.

B.—TABLES.

Comparative Legislative

STATE.	Legislature.		Senate.		
	Name.	Houses.	Number.	Term.	Age.
Alabama	Leg.	S. & R.†	33	4	27
Arkansas	"	S. & R.	32	4	25
California	"	S. & A.	40	4	21
Colorado	"	S. & R.	26	4	25
Connecticut	"	"	24	2	21
Delaware	"	"	9	4	27
Florida	"	S. & A	32	4	21
Georgia	"	S. & R.	44	4	25
Idaho	"	"	18	2	21
Illinois	"	"	51	4	25
Indiana	"	"	50	4	25
Iowa	"	"	50	4	25
Kansas	"	"	33	4	21
Kentucky	"	"	38	4	30
Louisiana	Gen. A. d	"	36	4	25
Maine	Leg.	"	31	2	25
Maryland	Gen. A.	S. & D. e	26	4	25
Massachusetts	Gen. Ct. f	S. & R.	40	1	21
Michigan	Leg.	"	32	2	21
Minnesota	"	"	54	4	21
Mississippi	"	"	40	4	21
Missouri	Gen. A.	"	34	4	30
Montana	Leg. A.	"	16	4	24
Nebraska	Leg.	"	33	2	21
Nevada	"	S. & Ass.	20	4	21
New Hampshire	Gen. Ct.	S. & R.	24	2	30
New Jersey	Leg.	S. & Gen. A.	21	3	30
New York	"	S. & Ass.	32	2	21
North Carolina	Gen. A.	S. & R.	50	2	25
North Dakota	Leg.	"	50 ‡	4	25
Ohio	Gen. A.	"	37	2	30
Oregon	Leg. A.	"	30	4	21
Pennsylvania	Gen. A.	"	50	4	25
Rhode Island	"	"	38	1	21
South Carolina	"	"	35 h	4	25
South Dakota	Leg.	"	45 ‡	2	25
Tennessee	Gen. A.	"	33	2	30
Texas	Leg.	"	31	4	26
Vermont	Gen. A.	"	30	2	30
Virginia	"	S. & D. e	40	4	21
Washington	Leg.	S. & R.	35	4	21
West Virginia	"	S. & D.	24	4	21
Wisconsin	"	S. & Ass.	33	4	21
Wyoming	"	S. & R.	16	4	25
Territories	"	Leg. C. & R.	12	2	21

TABLE OF THE STATES.

HOUSE.			MEETING.			SALARY.
Number.	Term.	Age.	Frequency.	Duration.	Begins.	Same for each House, presiding Officer usually double.
100	2	21	B.	50	Nov.	$4 and 10c. mileage.*
92	2	21	B.	60	Jan.	$6 a day.
80	2	21	B.	60	"	$8 and 10c. mileage, and $25.
49	2	25	B.	90	"	$7 and 15c. mileage.
249 a	2	21	A.	b	"	$300 and mileage.
20	2	24	B.	.....	"	$3 and mileage.
76	2	21	B.	60	"	$6 and 10c. mileage.
175	2	21	B.	40 c	Nov.	$4 and mileage.
86	2	21	B.	60	Jan.	$5 and 10c. mileage.
158	2	21	B.	.....	"	$5 and 10c. mileage, and $50.
100	2	21	B.	60	"	$6 and 20c. mileage.
100	2	21	B.	.....	"	$550 a year.
100	2	21	B.	50	"	$3 and 15c. mileage.*
100	2	24	B.	60 c	Dec.	$5 and 15c. mileage.
98	4	21	B.	60	May	$4 and mileage.
151	2	21	B.	.....	Jan.	$150 a year and 20c. mileage.
91	2	21	B.	90	"	$5 and mileage.*
240	1	21	A.	.....	"	$750 a year and 20c. mileage.
100	2	21	B.	.....	"	$3 and 10c. mileage.*
114	2	21	B.	90	"	$5 and 15c. mileage.
120	2	21	B.	.....	"	$400 a year.
140	2	24	B.	70	"	$5 and mileage, and $30.
55	2	21	B.	60	"	$6 and 20c. mileage.*
100	2	21	B.	40	"	$3 and 10c. mileage.*
40	2	21	B.	60	"	$7 and 40c. mileage.
321	2	21	B.	.....	June	$3 and mileage.
60	1	21	A.	.....	Jan.	$500 a year.*
128	1	21	A.	.....	"	$1500 and 10c. mileage.*
120	2	21	B.	60	"	$4 and 10c. mileage.*
140 ‡	2	21	B.	.....	"	$5 and 10c. mileage.*
110	2	25	B.	.....	"	$600 and 12c. mileage.
60	2	21	B.	40	"	$3 and 15c. mileage.*
201	2	21	B.	.....	"	$1500 and 5c. mileage.
72 a	1	21	A.g	.....	May	$1 and 8c. mileage.*
124	2	22	A.	.....	Nov.	$5 and 10c. mileage.
135 ‡	2	25	B.	.....	Jan.	$5 and 10c. mileage.*
99	2	21	B.	75	"	$4 and 16c.*
106	2	21	B.	90	"	$5 and 20c. mileage.*
240	2	21	B.	.....	Oct.	$3 a day.
100	2	21	B.	90 c	Dec.	$540 a year.
70	2	21	B.	.....	Jan.	$5 and 10c. mileage.*
65	2	21	B.	45 c	"	$4 and 10c. mileage.*
100	2	21	B.	.....	"	$500 and 10c. mileage.*
33	2	21	B.	40	"	$5 and 15c. mileage.
24	2	21	B.	60	" 1	$4 and 20c. mileage.

h. "One for each county."—State Const.
1. Except Idaho and New Mexico, which begin in December.
* State constitution. † Senate and house of representatives.
‡ "Not more than."—Constitution.

COMPARATIVE EXECUTIVE TABLE OF THE STATES.

STATES.	GOVERNOR.				LIEUT. GOV.		USUAL ADMINISTRATIVE OFFICERS.					
	Qualifications.	Term, years.	Salary.	Election.	Term and Salary.	Succession to Governorship.	Secretary of State.	State Treasurer.	State Auditor.	Attorney General.	Supt. of Public Instruction.	Railroad Commissioners.
Alabama	30, c, r 7 a	2	$3,000	P b	None.	P, S	2, 1800	2, 2150	2, 1800	2, 1500	2250j	2, 3000 c Gov., Sec. St., Aud.
Arkansas	30, c, r 7	2	3,500	P	None.	P, S	2, 1800	2, 2250	2, 2250	2, 1500	2, 1600	
California	30, c, r 2	4	6,000	P	4, 3000	L, P	4, 3000	4, 3000	4, 3000	4, 3000	4, 3000	4, 4000
Colorado	30, c, r 2	2	5,000	P	2, 1000	L, P, S e	2, 3000	2, 3000	2, 2500	2, 2000	2, 3000	.....
Connecticut	30, voter	2	4,000	M d	2, 500 a	L, P, S	2, 1500	2, 1500	2, 1500	2, 1200	2, 3000	2, 3000
Delaware	30, C 12, c 6‡	4 h	2,000*	P	None.	P, S	4, 1000j	2, 1450	2, 700	4, 200	4, 1500	.....
Florida	C 9, c 3	4	3,500	P	4, 500	L, P	4, 1500	4, 2000	4, 2000	4, 1500	4, 1500	.....
Georgia	30, C 15, c 6	2	3,000*	M	None.	P,	2, 2000	2, 2000	2, 2000	2, 2000	2, 2000	2, 2500
Idaho	30, c, r 2	2	8,000	P	2,$7.50 day.	L, P, S	2, 1800	2, 1000	2, 1800	2, 2000	2, 1500	.....
Illinois	30, C 5, c 5	4	6,000*	P	4, 1000	L, P	4, 3500	2, 3500	4, 3500	4, 3500	4, 3500	2, 3500
Indiana	30, C 5, r 5	4 h	5,000	P	4, $8 day. a	L, P	2, 2000	2, 3500	2, 1500	2, 2500	2, 2500	.....
Iowa	30, C, r 2	2	3,000	P	2, 1100	L, P, S	2, 2200	2, 2200	2, 2200	1500†	2, 2200	3, 3000
Kansas	.....	2	3,000	P	2, $6 day.	L, P, S	2, 2000	2, 2500	2, 2000	2, 2500	2, 2000	3, 3000
Kentucky	35, C, r 6	4 h	5,000*	P	4, $10 day. a	L, P, S	4, 1500	2, 2400	4, 2500	4, 600†	4, 2400	2, 2000
Louisiana	C, r 2	4 h	4,000	P	4, $8 day.	L, P	4, 1800†	4, 2000	4, 2500	4, 3000	4, 2000	.....
Maine	30, C, r 5 f	2	2,500	M d	None.	P, S	2, 1200	2, 1600	.....	2, 1000	3, 1000	3, 1000
Maryland	30, c 10, r 5	4	4,500*	P	None.	P, S	4, 2000	2, 2500	2, 2500	4, 3000	2, 2500	.....
Massachusetts	r 7, Christian	1	5,000	M d	1, 2000	L. Council	1, 3000	1, 5000	1, 3000	1, 4000	1, 3400	3, 3500
Michigan	30, C 5, r 2	2	1,000	P	2, $3 day.	L, P	2, 800	2, 1000	2, 2000	2, 600	2, 1000	2, 2500
Minnesota	25 C, r 1	2	5,000	P	2, $10 day.	L, P	2, 3500	2, 3500	4, 3000	2, 3500	2, 2500j	3, 3000
Mississippi	30, C 20, r 2	4	4,000*	P	4, 800 a	L, P, S	4, 2500	4, 2500	4, 2500	4, 2500	4, 2000	3, 2500
Missouri	35, C 10, r 7	4	5,000*	P	4, $5 day. a	L, P, S	4, 3000	4, 3000	4, 3000	.....	4, 3000	6, 3000
Montana	30 C, r 2	4	5,000	P	4, $12 day.	L, P, S	4, 3000	4, 3000	4, 3000	4, 3000	4, 2500	.....

Nebraska	30, C 2, c 2	2	2,500	P	2, $6 day.	L, P, S	2, 2000	2, 2500	2, 2500	2, 2000	2, 2000	.....
Nevada	25 C, r 2	4	5,000	P	Lib. 4, 2700	L, P	4, 3000	4, 3000	4, 3000	4, 3000	4, 2400	.....
New Hampshire	30, r 7	2	2,000	M d	None.	P	2, 800†	2, 1800	.....	5, 2200	2, 2500	3, 2500
New Jersey	30, C 20, r 7	3 h	5,000	P	None.	P	5, 6000	3, 4000	3, 4000	5, 7000	3, 3000	.....
New York	30, C, r 5	3	10,000*	P	3, 5000	L, P	2, 5000	2, 5000	2, 6000	2, 5000	3, 5000	3, 8000
North Carolina	30, C 5, r 2	4	3,000*	P	4, $8 day.	L, P	4, 2000	4, 3000	4, 1500	4, 2000	4, 1500	.....
North Dakota	30, C, c, r 5	2	3,000	P	2, 1000	L, Sec	2, 2000	2, 2000	2, 2000	2, 2000	2, 2000	2, 2000
Ohio	Voter	2	8,000	P	2, 800	L, P	2, 3000	2, 3000	4, 3000	2, 2000	3, 2000	2, 2000
Oregon	30, C, r 3	4	1,500	P	Sec. St. ex-officio.	L, P	4, 1500g	4, 800	.....	.....	4, 1500	.....
Pennsylvania	30, r 7	4	10,000*	P	4, 3000	L, P	4000j	2, 5000	3, 3000	3500j	4, 2500	.....
Rhode Island	Voter c i	1	1,000	M d	1, 500	L, P	1, 2500	1, 2500	1, 2500	1, 2500	3000j	1, 500
South Carolina	30, C 2, c, r 2	2	3,500*	P	2, 1000	L, P	2, 2100	2, 2100	2, 2100	2, 2100	2, 2100	6, 3000
South Dakota	30, C, c, r 2	2	2,500	P	2, $10 day.	L, Sec	2, 1800	2, 1800	2, 1800	2, 1000	2, 1800	.....
Tennessee	30, C, c 7	2	4,000	P	None.	P, S	4, 1800†	2, 2750	2, 2750	6, 3000	2, 1800	.....
Texas	30, C, r 5	2	4,000*	P	2, $5 day.	L, P	2000j	2, 2500	2, 2500	2, 2000	2, 2500	2, 3000
Vermont	Voter	2	1,500	M	2, $6 day.	L	2, 1700j	2, 1700	2, 2000j	.....	2, 1400	2, 500j
Virginia	30, c, r 3 i	4 h	5,000*	P	4, 900	L	2, 2000	2, 2000	2, 3000	4, 2500	4, 2500	3000
Washington	C, c	4	4,000	P	4, 1000	L	4, 2500	4, 2000	4, 2000	4, 2000	4, 2500	.....
West Virginia	Voter	4	2,700	P	None.	P, S	4, 1000†	4, 1400	4, 2000†	4, 1300	4, 1500	.....
Wisconsin	Voter	2	5,000	P	2, 1000	L, Sec, S	2, 5000	2, 5000	.....	2, 3000	2, 3500	2, 3000
Wyoming	30, C, r 5	4	2,500	P	None.	Sec	4, 2000	4, 2000	4, 2000	.....	4, 2000	.....
Territories	Partizan	4	2,600	A p	.....	.....	4, 1800	2, vari's	2, vari's	.....	2, vari's	.....

a That is 30 years old, a citizen of the state, and a resident thereof 7 years.
b Plurality or majority to elect.
c There are three railroad commissioners each in Ala., Cal., Conn., Ga., Ill., Iowa, Kan., Ky., Me., Mass., Minn., Miss., Mo., N. D., N. H., N. Y., S. C.; one in other states.
d In case no one has a majority, election goes to legislature.
e That is, the order of succession is Lieutenant Governor, President of Senate, Speaker of *House*.
f Governor must be native citizen of U. S.
g In Oregon the Secretary of State is also ex-officio Lieutenant Governor, Auditor, and one of the Land Commissioners.
h Ineligible for succeeding term.
i In Del., N. C., Ohio and R. I., the Governor has no veto.
j Appointed.
* In these thirteen states the Governor also has the use of the "Executive Mansion" of the state.
§ In these states the Lieutenant Governor may debate in "committee of the whole."
† Thirty years old; citizen of the United States, 12 years; and of the state, 6 years.
In Me., Mass., N. H. and Vt., the Governor is assisted by an executive council of 7, 8, 12, and 5 members respectively.

COMPARATIVE JUDICIAL TABLE OF THE STATES.

STATES.	SUPREME COURT.							CIRCUIT.			PROBATE.			JUSTICE.			REMARKS.
	Members.	Chief Justice.	Election.	Term.	Meetings.	Salary.	Qualifications	Jurisdiction.	Election.	Term.	Jurisdiction.	Election.	Term.	Jurisdiction.	Number.	Term.	(Municipal and Special courts not given.)
Alabama	3	A	P'ple	6	1	$3600	25	L	P	6	Pr.†	P'ple	6	$100	2	..	Chancery.
Arkansas	3	A	P	8	2	3000	30, C, r2, L8	L	P	4	Pr.†	P	2	100	2	2	Com. Pleas.
California	7	C	P	12	†	6000	.....	LE	P	6	Pr.† L	P	4	300	2	2	Naturalization in County Court.
Colorado	3	C	P	9	2	5000	30, C, r2, LL	LE	P	6	Pr.† C	P	3	300	.....	2	
Connecticut	5	A	Leg.	8	6*	4500 / 4000 / 2500	.....	LE	.....	8	.....	.....	....	100	.....	..	Common Pleas, less than $500.
Delaware	5	A	Gov.	Life	2	2200	.....	Held by Judges.		S.C	Held by the Chancellor			100	.....	..	Chancery.
Florida	3	A	Gov.	Life	3	3800	.....	LE	Gov.	6	Pr. & L	Gov.	4	100	Gov.	4	
Georgia	3	A	Leg.	12	2	3000	30, c 3, L 7	LE	P	4	Pr.†	P	4	100	P	4	Superior Ct. bet. C. and S. C.
Idaho	3	C	P	6	4	3000	30, C, r 2	LE	P	4	Pr.†	P	....	300	.....	..	
Illinois	7	B	P	9	6*	5000	30, C, r 5	LE	P	4	Pr.†	P	4	200	.....	4	Appellate Courts compos'd of Circuit Judges.
Indiana	5	B	P	6	2	5000	.....	LE	P	6	In Circuit Ct.			200	.....	4	
Iowa	5	C	P	6	4	4000	.....	LE	P	4	In Circuit Ct.			100	.....	..	By consent of parties, $300.
Kansas	3	A	P	6	11	3000	.....	LE	P	4	Pr.†	P	2	300	2	2	
Kentucky	4	C	P	6	2	4000	30, C, r2, L8	LE	P	6	Pr.†	P	4	50	2	4	
Louisiana	5	A	Gov.	12	4	5000	.....	L	P	4	Pr. $500	.....	....	100	.....	2	No equity proceedings in La.
Maine	8	A	Gov.	7	3	3000	.....	By Judges Supreme Ct.			Pr.† L	.....	....	50	.....	..	Probate Court also Court of Insolvency.
Maryland	9	A	P	15	†	3500	30, c 5, LL	LE	P	15	Pr.	P	6	100	Gov.	2	
Massachuse'ts	7	A	Gov.	Life	†	3000	.....	L	Gov.	Lf.	Pr.† L	Gov.	Lf.	300	Gov.	7	Probate Court also Court of Insolvency.
Michigan	4	A	P	8	4	5000	.....	LE	P	6	P.	P	4	300	4	4	
Minnesota	5	A	P	6	2	5000	.....	LE	P	6	Pr.†	P	2	100	2	2	
Mississippi	3	A	Gov.	9	2	3500	30, c 2	L	Gov.	6	In Chan'cy		Ct.	150	2	2	Chancery.
Missouri	5	A	P	10	2	4500	30, C, c5, LL	LE	P	6	Pr.	P	....	150	1	..	
Montana	3	A	P	6	3	4000	30, C, r2, LL	LE	P	4	.....	.....	....	300	2	..	
Nebraska	3	C	P	6	2	2500	30, C, r 3	LE	P	4	Pr.† L	P	2	100	2	2	

Nevada	3	A	P	6 till	4	{7000 / 6000 / 3500	....	LE / Held of	P by J' Sup.	ges Ct.	..... Pr.	.....	....	300	.....	..	
N. Hampshire	7	A	Gov.	70	2	3300	.....	L	Leg.	5	.....	.....	....	100	.....	..	Chancellor, $10,000.
New Jersey...	9	A	Gov.	7	3	7000	.....	Held of	by J' Sup.	ges Ct.	Pr. Clk. Ct. acts as	P Superior	.... Jr.	200	.....	..	Probate Court called "Surrogate."
New York	7	A	P	14	2	9000	.....	.....	.....	.....	.....	.....	....	200	.....	..	Cir. Ct. call'd "Superior Ct."
N. Carolina...	3	A	P	8	2	2500	.....	.....	.....	.....	.....	.....	....	200	.....	..	
N. Dakota	3	C	P	6	3		30, C, r3, LL	LE	P	4	Pr.† L	.....	....	200	.....	..	
Ohio	5	A	P	5	1	5000	.....	.....	P	5	Pr.†	P	3	100	.....	3	There is a Court of Common Pleas.
Oregon.....	4	C	P	6	2	2000	.....	LE	P	6	Pr.†	P	4	250	.....	..	
Pennsylvania	7	C	P	21	3	{8500 / 8000	.....	L	P	10	Pr.†	P	....	100	2	..	Prob. Ct. called "Orphans' Court."
Rhode Island.	5	A	Leg.	Life	5	{4500 / 4000 / 4000	.....	Held of	by J' Sup.	ges Ct.	Town are	Coun Pr'b.	cils Cts	100	.....	..	
S. Carolina....	3	A	Leg.	6	2	3500	30, C, r 5	L	Leg.	4	Pr.†	P	2	100	‡	2	
S. Dakota.....	3	B	P	6	2	2500	30, C, r2, LL	LE	P	4	Pr.† L	P	2	100	.....	..	
Tennessee.....	5	A	P	8	3	4000	30, r 5	L	P	8	Pr.	.....	....	100	2	6	Just. of Peace are County Com'rs and Prob. Ct.
Texas	3	A	P	6	3	3500	30, C, c, L 7	LE	P	4	Pr.†	P	2	200	1	2	Ct. of Appeals below S. C.
Vermont.....	7	A	Leg.	2	...	3000	.....	Held of	by J' Sup.	ges Ct.	Pr.† L	.....	2	200	.....	2	Chancery Court by Judges of S. C.
Virginia	5	B	Leg.	12	3	{3250 / 3000	.....	LE	Leg.	8	Pr.†	Leg.	6	100	.....	..	
Washington..	5	C	P	6	‡	4000	.....	*LE	P	4	.....	.....	....	.....	.....	..	
West Virginia	4	A	P	12	3	2250	.....	LE	P	8	Pr.†	P	4	100	2	4	Two J. P.'s associated with Pr. J. in holding court.
Wyoming	3	C	P	8	2	.....	30, C, r3, L9	LE	P	6	.....	.....	....	200	‖	..	
Territories ...	3–6	A	Pres.	4	...	3000	.....	LE	Judges of S.C.		Pr.†	.....	....	100	.....	..	

The three modes of selecting the Chief Justice are by electing or appointing one as such, by leaving the judges themselves to determine which shall act, or by a provision making the one whose term expires first act. These modes are indicated in the table by A, B and C, respectively. In the salary column, where two numbers appear the upper is the salary of the Chief Justice. In giving jurisdiction of Circuit Courts, L means law only; LE means jurisdiction in both law and equity; 30, C, c, L7, means 30 years old, a citizen of the U. S. and of the state, and seven years legal practice. LL means "learned in the law."

In Me., Mass., N. H. and S. D. the Supreme Court is required to give legal advice to the Governor.

* Called Superior Court, at least one in each county. This court also exercises the Probate powers.

† Probate Court given some other duty, unrelated to its regular function. L means that it has also certain civil jurisdiction.

‡ Continuous. ‡ Competent number. ‖ As many as are needed.

MISCELLANEOUS COMPARATIVE

STATES.	POLITICAL.					
	Admission.	Area.	Population—1880.	Voters—1880.	Rep. in Cong.	Pres. Electors.
Alabama	1819	52,250	1,262,505	259,884	8	10
Arkansas	1836	53,850	802,525	182,977	5	7
California	1850	158,360	864,694	329,392	6	8
Colorado	1876	103,925	194,327	93,608	1	3
Connecticut	1788*	4,990	622,700	177,291	4	6
Delaware	1787*	2,050	146,608	40,298	1	3
Florida	1845	58,680	269,493	61,699	2	4
Georgia	1788*	59,475	1,542,180	321,488	10	12
Idaho	1890				1	3
Illinois	1818	56,650	3,077,871	796,847	20	22
Indiana	1816	36,350	1,978,301	498,437	13	15
Iowa	1846	56,025	1,624,615	416,658	11	13
Kansas	1861	82,080	996,096	255,714	7	9
Kentucky	1792	40,400	1,648,690	376,221	11	13
Louisiana	1812	48,720	939,946	216,787	6	8
Maine	1820	33,040	648,936	187,323	4	6
Maryland	1788*	12,210	934,943	232,106	6	8
Massachusetts	1788*	8,315	1,783,085	502,648	12	14
Michigan	1837	58,915	1,636,937	467,687	11	13
Minnesota	1858	83,365	780,773	213,485	5	7
Mississippi	1817	46,810	1,131,597	238,532	7	9
Missouri	1821	69,415	2,168,380	541,207	14	16
Montana	1889				1	3
Nebraska	1867	76,855	452,402	129,042	3	5
Nevada	1864	110,700	62,266	31,255	1	3
New Hampshire	1788*	9,305	346,991	105,138	2	4
New Jersey	1787*	7,815	1,131,116	300,035	7	9
New York	1788*	49,170	5,082,871	1,408,751	34	36
North Carolina	1789*	52,250	1,399,750	294,750	9	11
North Dakota	1889				1	3
Ohio	1802	41,060	3,198,062	826,577	21	23
Oregon	1859	96,030	174,768	59,629	1	3
Pennsylvania	1787*	45,215	4,282,891	1,094,284	28	30
Rhode Island	1790*	1,250	276,531	76,898	2	4
South Carolina	1788*	30,570	995,557	205,789	7	9
South Dakota	1889				2	4
Tennessee	1796	42,050	1,542,359	330,305	10	12
Texas	1845	265,780	1,541,749	330,374	11	13
Vermont	1791	9,565	332,286	95,621	2	4
Virginia	1788*	42,450	1,512,565	334,506	10	12
West Virginia	1863	24,780	618,457	139,161	4	6
Washington	1889				1	3
Wisconsin	1848	56,040	1,315,497	340,482	9	11
Wyoming					1	3

* The original thirteen.
a Excluding local funds expended by cities and districts.

TABLES OF THE STATES.

ILLITERACY, 1880.		EDUCATION, 1885-6.				INTEREST.		
Population, 10 or over.	Cannot Read.	School Expenses.	Children, 6-14.	School Enrollment.	Average Days in Year.	Legal Rate.	Allowed by Contract.	Forfeiture in Case of Usury.
851,780	370,279	a 741,244	326,775	252,892	c 89 25	8	8	Interest.
531,876	153,229	866,892	212,046	175,935	.....	6	10	Pr. and Int.
681,062	48,583	3,505,931	158,727	189,220	.....	7	Any.	None.
158,220	9,321	b 905,623	30,185	40,690	c 172 106	10	Any.	None.
497,303	20,986	1,791,666	104,608	125,539	179 74	6	6	None.
110,856	16,912	215,161	28,966	31,263	157	6	6	Principal.
184,650	70,219	385,800	75,095	60,767	141	8	Any.	None.
1,043,840	446,682	711,990	376,265	319,724	.....	7	8	Excess.
2,269,315	96,809	10,136,058	644,970	743,345	153	6	8	Interest.
1,468,095	70,008	5,214,198	415,625	506,126	129	6	8	Excess.
1,181,641	28,117	4,660,000	846,136	472,966	144	6	10	10 per ct. of amt.
704,297	25,503	3,849,017	259,066	368,239	.....	7	12	Excess.
1,163,498	258,186	700,790	390,268	282,514	102	6	6	Exc. of 10 per ct.
649,070	297,312	450,030	218,605	103,416	126	5	8	Interest.
519,669	18,181	1,099,352	103,697	145,317	104	6	Any.	None.
695,364	111,387	1,832,383	192,847	174,980	191	6	6	Excess.
1,432,183	75,635	7,151,075	285,778	349,617	172	6	Any.	None.
1,236,686	47,112	4,332,968	337,390	416,751	144	7	10	Excess.
559,997	20,551	2,371,990	203,145	233,721	116	7	10	Excess.
753,693	315,612	840,776	282,999	304,380	c 152 78	6	10	Interest.
1,557,631	136,818	4,328,596	512,48[illegible]	568,952	102	6	10	Interest.
318,271	7,830	2,350,869	146,601	180,059	.....	7	10	Int. and Costs.
50,666	3,703	128,285	7,090	7,897	.....	10	Any.	None.
286,188	11,782	601,403	50,814	64,219	102	6	6	Thrice excess.
865,591	39,136	2,422,299	225,967	232,317	192	6	6	Interest.
3,981,428	166,625	13,284,886	818,322	1,027,767	179	6	6	Pr. and Int.
959,951	367,890	671,116	328,989	305,598	60	6	8	Interest.
2,399,397	84,754	9,327,549	638,922	775,149	161	6	8	Interest.
130,565	5,376	1,643,686	43, 56	49,176	101	8	10	Pr. and Int.
3,203,215	146,138	10,031,937	891,065	989,429	143	6	6	Excess.
220,461	17,456	782,967	46,186	47,882	190	6	Any.	None.
667,456	321,780	425,903	241,601	183,966	70	7	10	Twice excess.
1,062,130	294,385	1,047,223	383,638	383,507	80	6	6	Excess.
1,064,196	256,223	2,166,633	446,482	261,021	.....	8	12	Interest.
284,052	12,993	599,515	54,474	71,667	136	6	6	Excess.
1,059,034	360,495	1,453,103	357,322	308,296	118	6	6	Excess.
428,587	52,041	1,036,874	153,266	172,257	.....	6	6	Excess.
965,712	38,693	3,635,160	305,562	332,327	176	7	10	Interest.

b Including $100,261 paid on temporary loans.
c City and district schools respectively.

COMPARATIVE

STATES.	Age.	REQUIREMENT AS TO CITIZENSHIP OF U. S.	RESIDENCE IN STATE.	RESIDENCE IN COUNTY.
Alabama	21	Citizens or declared intention	1 year	3 months.
Arkansas	21	Citizens or declared intention	1 year	6 months.
California	21	Actual citizens	1 year	90 days.
Colorado	21	Citizens or declared intention	6 months.	
Connecticut	21	Actual citizens	1 year	6 months.
Delaware	21	Actual county taxpayers	1 year	1 month.
Florida	21	United States citizens or declared intention	1 year	6 months.
Georgia	21	Actual citizens	1 year	6 months.
Idaho	21	Actual citizens	6 months.	30 days.
Illinois	21	Actual citizens	1 year	90 days.
Indiana	21	Citizens or declared intention	6 months.	60 days.
Iowa	21	Actual citizens	6 months.	60 days.
Kansas	21	Citizens or declared intention	6 months.	
Kentucky	21	Free white male citizens	2 years	1 year.
Louisiana	21	Citizens or declared intention	1 year	6 months.
Maine	21	Actual citizens	3 months.	
Maryland	21	Actual citizens	1 year	6 months.
Massachusetts	21	Citizens.	1 year	
Michigan	21	Citizens or declared intention	3 months.	
Minnesota	21	Citizens or declared intention	4 months.	
Mississippi	21	Actual citizens	6 months.	1 month.
Missouri	21	Citizens or declared intention	1 year	60 days.
Montana	21	Actual citizens	1 year	
Nebraska	21	Citizens or declared intention	6 months.	
Nevada	21	Citizens or declared intention	6 months.	30 days.
New Hampshire	21	Actual citizens		
New Jersey	21	Actual citizens	1 year.	5 months.
New York	21	Actual citizens	1 year	4 months.
North Carolina	21	Actual citizens	12 months.	90 days
North Dakota	21	Cit. or dec. intent, or Indians 2 yrs. out of tribal relations.	1 year	6 months.
Ohio	21	Actual citizens	1 year	
Oregon	21	Citizens or declared intention	6 months.	
Pennsylvania	21	Actual citizens	1 year	
Rhode Island	21	Actual tax-paying citizens	1 year	
South Carolina	21	Actual citizens	1 year	60 days.
South Dakota	21	Citizens or declared intention	6 months.	30 days.
Tennessee	21	Actual citizens	12 months.	6 months.
Texas	21	Citizens or declared intention	1 year	6 months.
Vermont	21	Actual citizens	1 year	
Virginia	21	Actual citizens	12 months.	
Washington	21	Actual citizens	1 year	90 days.
West Virginia	21	Actual citizens	1 year	60 days.
Wisconsin	21	Citizens or declared intention	1 year	
Wyoming	21	Actual citizens	1 year	60 days.

SUFFRAGE TABLE.

RESIDENCE IN VOTING PRECINCT	REGISTRATION.	EXCLUDED FROM VOTING.
1 month...	Legislature may regulate....	Idiots, Indians, convicted of crime.
1 month...	Prohibited as a bar to suff'ge	Idiots, Indians, convicted of crime.
30 days....	Registrati'n required by law	Idiots, Indians, convicts, Chinese.
....	Required by constitution...	Persons in prison.
6 months..	Required by law.....	Those unable to read and convicts.
.....	No registration required....	Idiots, insane, paupers, criminals.
.....	Required by constitution...	Idiots, insane, criminals, bettors on elections, duelists.
.....	Leg. may regulate, no act...	Idiots, insane, crimin'ls, non-taxpayers.
.....	Required by constitution ...	Idiots, crimin'ls, polygamists. [ers.
30 days....	Required by law.....	Convicts.
30 days....	No law for registration.....	Fraudulent voters and bribers.
.....	Required by law.....	Idiots, insane, criminals.
30 days....	Required in cities only.....	Idiots, insane, convicts, rebels.
60 days....	No registration required....	Bribery, robbery, forgery, &c.
30 days....	Legislature may regulate...	Idiots, insane. criminals.
.....	Required by law.....	Paupers, Indians not taxed.
.....	Required by constitution...	Lunatics, convicts, and guilty of bribery.
6 months..	Required by law.....	Paupers, persons under guardians, non-taxpayers and men unable to read and write.
10 days....	Required by law.....	Duelists.
10 days....	Required by law.....	Idiots, insane, convicts.
.....	Required by constitution....	Idiots, insane, criminals.
....	Required by constitution in cities only.....	Inmates of asylums, poorhouses, and prisons, U. S. army.
.....	Leg. may require	Insane.
.....	Required by law.....	Idiots, convicts, U. S. army.
.....	Required by constitution....	Idiots, insane, convicts.
Town 6 ms	Required by law.....	Paupers.
.....	Required in cities of 10,000..	Paupers, idiots, insane, convicts.
30 days....	Required in cities of 10,000..	Election bettors or bribers, convicts.
.....	Required by constitution....	Convicts.
90 days....	.....	Convicts, insane.
.....	No registration required....	Idiots, insane.
.....	....	Idiots, insane, convicts, U. S. army, Chinese.
2 months..	Required by constitution....	Non-taxpayers, political bribers.
Town 6 ms	Required by law.....	Persons without property to the value of $134.
.....	Required by constitution....	Insane, inmates of asylums, almshouses, prisons, U.S. army, duel'ts
10 days....	....	Convicts, insane.
....	No registration required....	Non-payers of poll-tax.
6 months..	Prohibited by constitution..	Lunatics, idiots, paupers, convicts, U. S. army.
Town 3 ms	Required by law.....	Bribers.
.....	Required by law.....	Lunatics, idiots, convicts, duelists, U. S. army.
30 days....	Required by law.....	Convicts, insane.
.....	Prohibited by constitution..	Lunatics, paupers, convicts.
.....	Required by law.....	Insane, idiot, convict, briber, bettor,
....	Required by constitution ...	Idiots. insane, criminals. [duelist.

NOTE.—All the states except Wyoming limit suffrage to male citizens, but in Col., Mass., Mont., Minn., N. Dak., S. Dak. and Wis. women may vote at school elections.

COMPARATIVE LEGISLATIVE TABLE OF

NAMES OF NATIONS.	KIND OF GOVT. M.—Monarchy. R.—Republic. S.—Single. F.—Federative. H.—Hereditary. E.—Elective.	BOTH HOUSES. Name applied to the Legislative Body.	Names of the Houses.	Meetings.
Austro-Hungary	F. H. M.	Delegations.	Upper, Lower.	A
Austria	S. H. M.	Diet or Reichsrath.	Herrenhaus, Abgeordnetenhaus	A
Hungary	S. H. M.	Diet or Reichstag.	Magnates, Representatives.	A
Belgium.....	S. H. M.	Legislative Chambers.	Senate, Representatives.	A
Denmark.....	S. H. M.	Diet or Rigsdag	Landsthing, Folkething.	A
France.....	S. R.	Assembly.	Senate, Deputies.	A
Germany.....	F. H. M.	.....	Bundesrath. Reichstag.	A
Prussia.....	S. H. M.	Legislative Chambers.	Herrenhaus. Abgeordnetenhaus	A
Great Britain.	F. H. M.	Parliament.	Lords, Commons.	*A
Italy.....	S. H. M.	Legislative Chambers.	Senate, Deputati.	A
Netherlands.	S. H. M.	States-General.	Upper, Lower.	A
Spain	S. H. M.	Cortez.	Senate, Congress.	A
Sweden	S. H. M.‡	Diet.	Upper, Lower.	A
Norway.....	S. H. M.	Storthing.	Lagthing, Odelsthing.	A
Switzerland	F. R.	Bundes-Versammlung.	Standerath. Nationalrath.	A
Argentine Confed...	F. R.	Congress.	Senate, Deputies.	A
Colombia	F. R.	Congress.	Senate, H. of R.	A
Mexico.....	F. R.	Congress.	Senate, H. of R.	A
Brazil	F. R.	Legislative Assembly.	Senate, Congress.	A

* The Chancellor (Bismarck, 1888,) is responsible only to the Emperor. The administration is through the Bundesrath in seven standing committees.

† These appointees must have held high office, or be eminent in science, literature or art, or pay annual taxes of at least $600.

Principal Constitutional Governments.

Upper House.				Lower House.				
How composed.	Election.	Term.	Qualifications.	How composed.	Election.	Term.	Qualifications.	Salaries.
20 Austrians, 20 Hungarians.	State Leg.	....	.....	40 Austrians 40 Hunga'ns	State Leg.	..	.....	.....
Royal Princes, Nobles,	.....	life	.....	353	People	6	.....	$1780,yr.
Archbishops, Appointees.	.....	life	.....	445	"	3	.....	.....
68	People.	8	40, c, r, P.	136, one for 40,000 inh.	"	4	25,c, r	$84, m'h
66	12 ap., 54 el.	8	25, r	102	"	3	25, r	$4, day.
300	75 for 225 for	life 9	40, c	557	"	4	25, c	$1780,yr.
59	States.	1	.....	397	"	3	.....	.....
Royal Princes, Hered. Nobles, Appointees, etc	..... Sover-eign.	.... life	.....	433	People indi-rectly.	3	30, c	.....
Hered, Nobles, Bishops, Life Peers, etc.	Sover-eign.	life	.....	658	People	7	21, c	None.
Royal Princes, Appointees.	Sover-eign.	life	40†	508, one for 40,000 inh.	"	5	30, V, P.	None.
39	By Divi-sions.	2	.....	86, one for 45,000 inh.	"	3	.....	$830, yr.
Hered. Nobles, 100 Life Sen.	Sover-eign.	....	.....	One for 50,000 inh.	"	5	25	.....
130 S. elected by 137, one for 30,000.	States.	10 9	35, P	64, town, 140, country.	"	3	21, P	.....
One-fourth of Storthing.	People indir'cty	3	.....	¼ of Storthing.	People indir'y	3	.....	.....
44, 2 from each canton.	By cantons.	3	Vot'r	135, one for 20,000 inh.	People	3	Vot'r	$2.50, dy
28, 2 from each province.	By provinces.	....	.....	50	"	..	.....	$1040,yr.
27, 3 from each state.	By the states.	....	.....	66, one for 50,000 inh.	"	2	.....	.....
54, 2 from each state.	State Leg.	6	30	331, one for 80,000 inh.	"	2	25, r,8	.....
58	People indirectly.	....	40, N, P.	122	People indirectly.	4	N, P	.....

† Sweden and Norway form a F. H. M.

In giving qualifications, N means *native*, and P means a *property* qualification. In last column, T means *regular term*.

Greece has only one chamber in its legislature. Consult Martin's Statesman's Year-Book, or an encyclopedia.

TABLE OF RULERS OF PRINCIPAL NATIONS, 1889.

GOVERNMENTS.	RULERS.	TITLE.	Year of Birth	Date of Accessi'n
Argentine Republic	Juarez Celman	President	.....	Oct. 12, '86
Austria-Hungary	Franz Joseph I	Emperor	1830	Dec. 2, '48
Belgium	Leopold II	King	1835	Dec. 10, '65
Bolivia	Aniceto Arce	President	.....	Aug. 1, '88
Brazil	Deodoro da Fonseca	President	.....	Nov. 16, '89
Chili	Jose Balmaceda	President	1840	Sept. 18, '86
China	Kwang Su	Emperor	1871	Jan. 12, '75
Colombia (U. S. of)	R. Nunez	President	.....	Aug. 7. '86
Corea	Li Fin	King	.....	—— '64
Costa Rica	Bernardo Soto	President	.....	Mar. 12, '85
Denmark	Christian IX	King	1818	Nov. 15, '63
Ecuador	Antonio Florez	President	.....	June 20, '88
France	Marie F. Sadi-Carnot	President	1837	Dec. 5, '87
Germany	Wilhelm II	Emperor	1859	June 15, '88
Baden	Friedrich I	Grand Duke	1826	Apr. 24, '52
Bavaria	Otto I	King	1848	June 13, '86
Hesse	Ludwig IV	Grand Duke	1837	June 13, '77
Lippe	G. F. Waldemar	Prince	1824	Dec. 8, '75
M'ckl'burg-Schwerin	Friedrich Franz III	Grand Duke	1851	Apr. 15, '83
Mecklenburg-Strelitz	Friedrich Wilhelm	Grand Duke	1819	Sept. 6, '60
Oldenburg	Nicholas F. Peter	Grand Duke	1827	Feb. 27, '53
Prussia	Wilhelm II	King	1859	June 15, '88
Saxony	Albert	King	1828	Oct. 29, '73
Waldeck	Georg Victor	Prince	1831	May 15, '45
Wurtemberg	Karl I	King	1823	June 25, '64
Great Brit. and Ireland	Victoria I	Queen	1819	June 20, '37
British India	Marquis Lansdowne	Viceroy	1845	Feb. 2, '88
Canada, Dominion of	Earl Stanley	Gov. Gen.	.....	Feb. 2, '88
Greece	Georgios I	King	1845	June 6, '63
Guatemala	M. L. Barillas	President	.....	—— '85
Hayti	Gen. Hippolyte	President	.....	—— '89
Hawaiian Islands	Kalakaua I	King	1836	Feb. 12, '74
Honduras	Luis Bogran	President	.....	Nov. 27, '83
Italy	Humbert I	King	1844	Jan. 9, '78
Japan	Mutsu Hito	Mikado	1852	Feb. 13, '67
Mexico	Porfirio Diaz	President	.....	Dec. 1. '88
Morocco	Muley-Hassan	Sultan	1831	Sept. 25, '73
Netherlands	Willem III	King	1817	Mar. 17, '49
Nicaragua	Evaristo Cavaza	President	.....	—— '87
Paraguay	Gen. Escobar	President	.....	Sept. 25, '86
Persia	Nassr-ed-Din	Shah	1829	Sept. 19, '48
Peru	Gen. Casceres	President	.....	June 3, '86
Portugal	Carlos I	King	.....	Oct. 19, '89
Rome (Pontificate of)	Leo XIII	Pope	1810	Feb. 20, '78
Roumania	Karl I	King	1839	Mar. 26, '81
Russia	Alexander III	Emperor	1845	Mar. 1, '81
Salvador	Francisco Menendez	President	.....	June 19, '85
Santo Domingo	Ulises Heureaux	President	.....	—— '86
Servia	Alexander I	King	1875	Mar. 6, '89
Siam	Khulalonkorn I	King	1853	Oct. 1, '68
Spain	Alfonso XIII*	King	1886	May 17, '86
Sweden and Norway	Oscar II	King	1829	Sept. 18, '72
Switzerland	Bernard Hammer	President	.....	Dec. 13, '88
Turkey	Abdul-Hamid II	Sultan	1842	Aug. 31, '76
Egypt	Mohamed Tewfik	Khedive	1852	Aug. 8, '79
United States	Benjamin Harrison	President	1833	Mar. 4, '89
Uruguay	Maximo Tages	President	.....	Nov. 19, '86
Venezuela	Pablo Rojas Paul	President	.....	Sept. 14, '88

* Under the Regency of his mother, Queen Marie Christina.

Armies and Navies of the World and Their Cost.

Compiled from Official Documents.

Countries.	Armies. Regular Army.	War Footing.	Annual Cost of Army.	Cost to Each Inhabitant.	Per cent of total Expenditure.†	Navies. No. of Vessels.	No. of Men.	Cost of Navy.
Austria-Hungary	284,071	1,078,904	$49,116,248	$1 30	78.14	98	7,222	$3,838,460
ArgentineRepublic	7,518	357,518	5,800,000	2 41	17.74	39	991	2,670,000
Belgium	47,734	114,637	9,208,046	1 66	14.08	10	172	.....
Bolivia	3,021	6,000	2,148,000	1 03	65.08	....	.....	.....
Brazil	15,048	32,000	7,466,120	73	9.72	59	4,984	5,560,291
Canada	2,000	700,152	3,840,000	88	13.36	7	.....	.....
Chili	8,139	61,880	16,326,095	.....	70.92	32	2,385	4,359,893
China	300,000	1,200,000	75,000,000	17	68.03	126	.....	.....
Colombia	4,000	30,740	.....	.....	.....	....	.....	.....
Cuba	25,653	.....	.....	.....	.....	....	.....	.....
Denmark	35,727	50,522	2,461,955	1 17	16.62	37	1,270	1,575,577
Egypt	10,900	43,000	.....	.....	.....	13	.....	.....
France	523,333	1,392,200	121,061,600	3 23	16.99	507	39,365	40,989,363
Germany	489,647	1,492,104	105,614,665	2 28	57.52	134	18,000	11,680,385
Great Britain	181,971	641,753	90,901,670	2 57	20.89	246	57,250	53,643,905
Greece	20,368	35,188	3,312,140	1 67	22.12	52	2,637	833,708
Gautemala	2,180	34,409	.....	.....	.....	....	.....	.....
Hawaii	400	.....	.....	.....	.....	....	.....	.....
India, British	190,476	380,000	87,201,250	34	24.52	....	.....	.....
Italy	750,765	2,590,172	41,098,611	1 44	13.20	176	15,140	10,310,741
Japan	38,425	131,475	9,263,713	25	14.78	37	5,551	2,024,552
Luxembourg	377	.....	75,680	36	5.65	....	.....	.....
Mexico	22,330	.....	8,252,852	87	24.76	8	.....	.....
Netherlands	65,113	165,010	8,464,000	2 08	15.12	120	3,436	5,170,886
Nicaragua	703	10,303	.....	.....	.....	....	.....	.....
Norway	18,750	54,000	1,628,440	90	14.89	46	915	420,680
Persia	80,500	150,500	3,800,000	54	42.22	....	.....	.....
Peru	13,200	70,000	.....	.....	.....	....	.....	.....
Portugal	33,994	125,057	5,099,105	1 12	14.54	39	3,200	1,607,411
Roumania	19,512	150,000	5,463,550	1 01	20.90	12	530	.....
Russia	780,081	2,300,000	125,508,474	1 27	27.34	373	28,975	19,911,580
Servia	18,000	210,000	2,072,890	1 21	29.80	....	.....	.....
Spain	152,895	452,000	24,524,415	1 47	13.93	124	21,678	6,719,046
Sweden	40,758	194,940	4,322,860	94	19.97	133	7,723	1,418,420
Switzerland	117,500	215,000	3,341,260	1 17	39.00	....	.....	.....
Turkey	160,417	1,112,000	23,841,064	95	33.81	49	40,392	3,000,000
United States	26,383	*3,165,000	39,429,603	78	16.15	93	12,204	17,292,601
Uruguay	3,100	23,700	.....	.....	.....	....	.....	.....
Venezuela	3,000	60,000	.....	.....	.....	4	200	.....

* Militia force *plus* the regular army.

† This column shows the ratio which the military expenditure bears to the total annual expenditure of each nation.

PRINCIPAL UNITED STATES EXECUTIVE OFFICERS AND SALARIES.

EXECUTIVE MANSION.

Office.	Salary.
President of United States	$50,000
Vice President	8,000

DEPARTMENT OF STATE.

Secretary of State	$8,000
Assistant Secretary	4,500
Second Assistant Sec'y	3,500
Third Assistant Sec'y	3,500
Chief Clerk	2,750
Chief of Diplomatic Bureau	2,100
Chief of Consular Bureau	2,100
Chief of Indexes & Archives	2,100
Four other bureau officers	2,100

TREASURY DEPARTMENT.

Secretary of the Treasury	$8,000
2 Assistant Secretaries	4,500
Chief Clerk of Department	3,000
Chief of Appointment Div	2,750
Chief of Warrant Division	,000
Chief of Public Moneys Div	2,500
Chief of Customs Division	2,750
Chief Mer.Mar.& Int. Rev	2,500
Chief Loans & Currency Div	3,500
Chief Revenue Marine Div	2,500
Chief Stationery & Printing	2,500
Supervising Inspector-General of Steamboats	3,500
Director of the Mint	4,500
Chief of Bureau of Statistics	3,000
Supt. of Life-Saving Service	4,000
Chairman Light-House Board	.....
Supervising Surgeon-General	4,000
Chief of Bureau of Engraving and Printing	4,500
Supervising Architect	4,500
Supt. U. S. Coast Survey (Acting)	6,000
2 Comptrollers	5,000
Commissioner of Customs	4,000
6 Auditors	3,600
Treasurer of the U. S.	6,000
Register of the Treasury	4,000
Comptroller of the Currency	5,000
Com'r of Internal Revenue	6,000

WAR DEPARTMENT.

Secretary of War	$8,000
Chief Clerk	2,750
Adjutant-General	5,500
Inspector-General	5,500
Quartermaster-General	5,500
Paymaster-General	5,500
Commissary-General	5,500
Surgeon-General	5,500
Judge Advocate Gen. (Acting)	5,500
Chief of Engineers	5,500
Chief Signal Officer	5,500
Chief of Ordnance	5,500
Officer in Charge War Records	3,500

NOTE.—For appointees consult any political almanac of this year.

NAVY DEPARTMENT.

Office.	Salary.
Secretary of the Navy	$8,000
Chief Clerk	2,500
Judge-Advocate General	4,500
Chief of Bureau of Yards and Docks	5,000
Chief of Bureau of Navigation	5,000
Chief of Bureau of Ordnance	5,000
Chief of Bureau of Provisions and Clothing	5,000
Chief of Bureau of Medicine and Surgery	5,000
Chief of Bureau of Equipment and Recruiting	5,000
Chief of Bureau of Construction and Repair	5,000
Chief of Bureau of Steam Engineering	5,000
Chief of Library and War Records	3,000
Pay Director	3,000
Supt. Naval Observatory	5,000
Supt. Nautical Almanac	3,500

POST-OFFICE DEPARTMENT.

Postmaster-General	$8,000
Chief Clerk	2,200
3 Ass't Postmaster-Generals	4,000
Supt. of Foreign Mails	3,000
Supt. of Money Order System	3,500
Asst. Attorney-General for Post-Office Department	4,000

DEPARTMENT OF THE INTERIOR.

Secretary of the Interior	$8,000
First Assistant Secretary	4,500
Assistant Secretary	4,000
Chief Clerk & Superintendent	2,750
Assistant Attorney-General	5,000
Com'r General Land Office	4,000
Com'r Pension Office	5,000
Com'r of Indian Affairs	4,000
Commissioner Patent Office	5,000
Assistant Commissioner	3,000
3 Examiners-in-Chief	3,000
30 Principal Examiners, each	2,400
Commissioner of Education	3,000
Director Geological Survey	6,000
Commissioner of Labor	3,000
Commissioner of Railroads	4,500

DEPARTMENT OF JUSTICE.

Attorney-General	$8,000
Solicitor-General	7,000
Two Asst. Attorney-Generals	5,000

DEPARTMENT OF AGRICULTURE.

Secretary of Agriculture	$8,000
Entomologist	2,500
Botanist	2,000
Chemist	2,500
Microscopist	2,000
3 Civil Service Com'rs, each	3,500

UNITED STATES JUDICIAL DEPARTMENT.

SUPREME COURT OF THE UNITED STATES.

The court holds annual sessions at Washington, commencing on the second Monday in October.

	Appointed from	Date of Commis'n.	Salary
Chief Justice, Melville W. Fuller	Illinois	July 20, 1888	$10,500
Justice Samuel F. Miller	Iowa	July 16, 1862	10,000
Justice Stephen J. Field	California	Mar. 10, 1863	10,000
Justice Joseph P. Bradley	New Jersey	Mar. 21, 1870	10,000
Justice John M. Harlan	Kentucky	Nov. 29, 1877	10,000
Justice Horace Gray	Massachusetts	Dec. 20, 1881	10,000
Justice Samuel Blatchford	New York	Mar. 23, 1882	10,000
Justice Lucius Q. C. Lamar	Mississippi	Jan. 17, 1888	10,000
Justice David J. Brewer	Kansas	Dec.	1889	10,000
Clerk of the Supreme Court—James H. McKenny	Dist. of Columbia		1880	6,000
Marshal—John M. Wright	Kentucky	Jan. 4,	1888	3,000
Reporter—J. C. Bancroft Davis	New York		1883	5,700

CIRCUIT COURTS OF THE UNITED STATES.

First Judicial Circuit.—Mr. Justice Gray, Boston, Mass.
Districts of Maine, New Hampshire, Massachusetts, Rhode Island.
Circuit Judge—LeBarron B. Colt, Providence, R. I., July 5, 1884..... $6,600

Second Judicial Circuit.—Mr. Justice Blatchford, New York City.
Districts of Vermont, Connecticut, New York.
Circuit Judges—William T. Wallace, New York City, April 6, 1882.. 6,000
E. Henry Lacombe, New York City, May 26, 1887... 6,000

Third Judicial Circuit.—Mr. Justice Bradley, Newark, N. J.
Districts of New Jersey, Pennsylvania, Delaware.
Circuit Judge—Wm. McKenna, Washington, Pa., Dec. 22, 1878..... 6,000

Fourth Judicial Circuit.—Mr. Chief Justice Fuller, Washington, D. C.
Districts of Maryland, Virginia, West Virginia, North Carolina, South Carolina.
Circuit Judge—Hugh L. Bond, Baltimore, July 13, 1870..... 6,000

Fifth Judicial Circuit.—Mr. Justice Lamar, Macon, Ga.
Districts of Georgia, Florida, Alabama, Mississippi, Louisiana, Texas.
Circuit Judge—Don A. Pardee, New Orleans, La., May 13, 1881..... 6,000

Sixth Judicial Circuit.—Mr. Justice Brewer.
Districts of Ohio, Michigan, Kentucky, Tennessee.
Circuit Judge—Howell E. Jackson, Jackson, Tenn., April 12, 1886.... 6,000

Seventh Judicial Circuit.—Mr. Justice Harlan, Chicago, Ill.
Districts of Indiana, Illinois, Wisconsin.
Circuit Judge—Walter Q. Gresham, Chicago, Ill., Dec. 9, 1884..... 6,000

Eighth Judicial Circuit.—Mr. Justice Miller, Keokuk, Iowa.
Districts of Minnesota, Iowa, Missouri, Kansas, Arkansas, Nebraska, Colorado, North and South Dakota.
Circuit Judge—Henry C. Caldwell 6,000

Ninth Judicial Circuit.—Mr. Justice Field, San Francisco, Cal.
Districts of California, Oregon, Nevada, Montana, Washington.
Circuit Judge—Lorenzo Sawyer, San Francisco, Cal., Jan. 10, 1870... 6,000

UNITED STATES COURT OF CLAIMS.

	Appointed from	Date of Commis'n.	Salary
Chief Justice, Wm. A. Richardson	Massachusetts	Jan. 20, 1885	$4,500
Judge Charles C. Nott	New York	Feb. 22, 1865	4,500
Judge Glenni W. Scofield	Pennsylvania	May 20, 1881	4,500
Judge Lawrence Weldon	Illinois	Nov. 24, 1883	4,500
Judge John Davis	Dist. Columbia	Jan. 20, 1885	4,500
Archibald Hopkins, Chief Clerk	Massachusetts	Jan. 1, 1873	3,000

JUDGES OF THE UNITED STATES DISTRICT COURTS.

DISTRICTS.	NAME.	RESIDENCE.	DATE OF COMMISS'N	SALARY.
Alabama:				
N. Mobile District..	John Bruce.....	Montgomery..	Feb. 27, 1875	$3,500
Southern " ..	Harry T. Toulmin...	Mobile.....	Dec. 14, 1886	3,500
Arkansas:				
Eastern District...	Henry C. Caldwell...	Little Rock...	June30, 1864	3,500
Western " ..	Isaac C. Parker.....	Fort Smith...	Mar. 24, 1875	3,500
California:				
Northern District..	Ogden Hoffman.....	San Francisco	Feb. 27, 1851	5,000
Southern " ..	Erskine M. Ross.....	Los Angeles..	Dec. 16, 1886	4,000
Colorado.....	Moses Hallett.....	Denver.....	Jan. 20, 1877	.....
Connecticut.....	Nathaniel Shipman..	Hartford.....	Apr. 17, 1878	3,500
Delaware.....	Leonard E. Wales....	Wilmington..	Mar. 20, 1884	3,500
Florida:				
Northern District..	Thomas Settle.....	Jacksonville..	Jan. 30, 1877	3,500
Southern " ..	James W. Locke.....	Key West.....	Feb. 1, 1872	3,500
Georgia:				
Northern District..	William T. Newman	Atlanta.....	Aug. 13, 1886	3,500
Southern " ..	Emory Speer.....	Savannah.....	Feb. 18, 1885	3,500
Illinois:				
Northern District..	Henry W. Blodgett..	Chicago.	Jan. 11, 1870	4,000
Southern " ..	William J. Allen.....	Springfield....	Apr. 18, 1887	3,500
Indiana.....	William A. Woods...	Indianapolis..	May 2, 1883	3,500
Iowa:				
Northern District..	Oliver P. Shiras.	Dubuque.....	Aug. 14, 1882	3,500
Southern " ..	James M. Love.....	Keokuk.....	Feb. 21, 1856	3,500
Kansas.....	Cassius G. Foster	Topeka.....	Mar. 10, 1874	3,500
Kentucky.....	John W. Barr.....	Louisville.....	Apr. 16, 1880	3,500
Louisiana:				
Eastern District...	Edward C. Billings..	New Orleans..	Feb. 10, 1876	4,500
Western " ..	Aleck Boarman.....	Shreveport....	May 18, 1881	3,500
Maine.....	Nathan Webb	Portland.....	Jan. 24, 1882	3,500
Maryland.....	Thomas J. Morris....	Baltimore.....	July 1, 1879	4,000
Massachusetts.....	Thomas L. Nelson...	Worcester	Jan. 10, 1879	4,000
Michigan:				
Eastern District...	Henry B. Brown.....	Detroit.....	Mar. 19, 1875	3,500
Western " ..	Henry F. Severens .	Kalamazoo...	May 25, 1886	3,500
Minnesota.....	Rensselaer R. Nelson	St. Paul.....	June 1, 1858	3,500
Mississippi (Two Districts).....	Robert A. Hill.....	Oxford.....	May 1, 1866	3,500
Missouri:				
Eastern District....	Amos M. Thayer.....	St. Louis.....	Feb. 26, 1887	3,500
Western " ..	John F. Phillips.....	.....	——— 1888	.....
Montana.....	.....	.....	——— 1889	3 500
Nebraska.....	Elmer S. Dundy.....	Falls City.....	Apr. 9, 1868	3,500
Nevada.....	George M. Sabin.....	Carson City...	July 26, 1882	3.500
New Hampshire.....	Daniel Clark.....	Manchester...	July 27, 1866	3.500
New Jersey.....	John T. Nixon.....	Trenton.....	Apr. 28, 1871	4,000
New York:				
Northern District..	Alfred C. Coxe.....	Utica.....	May 4, 1882	4,000
Southern " ..	Addison Brown.....	New Y'rk City	June 2, 1881	4,000
Eastern " ..	Charles L. Benedict..	Brooklyn.....	Mar. 9, 1865	4,000
North Carolina:				
Eastern District....	Augustus S. Seymour	New Berne...	Feb. 21, 1882	3,500
Western " ..	Robert P. Dick.....	Greensboro....	June 7, 1872	3,500
North Dakota.....	.....	.....	——— 1889	.....

JUDGES OF THE UNITED STATES DISTRICT COURTS.—Continued.

DISTRICTS.	NAME.	RESIDENCE.	DATE OF COMMISS'N	SALARY.
Ohio:				
Northern District..	Martin Welker.....	Toledo	Nov. 25, 1873	$3,500
Southern " ..	George R. Sage.....	Cincinnati....	Mar. 20, 1883	4,000
Oregon.....	Matthew P. Deady..	Portland.....	Mar. 9, 1859	3,500
Pennsylvania:				
Eastern District...	William Butler.....	Philadelphia..	Feb. 19, 1879	4,000
Western " ..	Marcus W. Acheson..	Pittsburgh....	Jan. 14, 1880	3,500
Rhode Island.....	George M. Carpenter	Providence...	Dec. 16, 1884	3,500
South Carolina.....	Charles H. Simonton	Charleston....	Sept. 8, 1886	3,500
South Dakota.....	Alonzo J. Edgerton..	.....	Dec. 1889	3,500
Tennessee:				
East. & Mid. Dist..	David M. Key.....	Chattanooga..	May 27, 1880	3,500
Western District...	Eli S. Hammond.....	Memphis.....	June 17, 1878	3,500
Texas:				
Eastern District...	Chauncey B. Sabin..	Galveston.....	Apr. 5, 1884	3,500
Western " ..	Thos. S. Maxey.....	Austin	——— 1888	3,500
Northern " ..	A. P. McCormick....	Graham.....	Apr. 10, 1879	3,500
Vermont.....	Hoyt H. Wheeler....	Jamaica	Mar. 16, 1877	3,500
Virginia:				
Eastern District...	Robert W. Hughes...	Norfolk..... .	Jan. 14, 1874	3,500
Western " ..	John Paul	Harrisonburg.	Mar. 3, 1883	3,500
Washington.....	.....	....	——— 1889	.....
West Virginia.....	John J. Jackson, Jr..	Parkersburg..	Aug. 3, 1861	3,500
Wisconsin:				
Eastern District...	James G. Jenkins....	Racine.....	——— 1888	3,500
Western " ..	Romanzo E. Bunn...	Madison.....	Oct. 30, 1877	3,500

CORRESPONDING OFFICERS OF U. S. ARMY AND NAVY.

FIELD OFFICERS:	FLEET OFFICERS:
1 General, $13,500, vacant.	1 Admiral, $13,000, David D. Porter.
2 Lieutenant General, $11,000, vacant.	2 Vice-Admiral, $9,000, Stephen C. Rowan.
3 Major Generals, $7,500, John M. Schofield, O. O. Howard, George Crook.	3 Rear Admirals, $6,000, J. A. Greer, L. A. Kimberly, R. Chandler, J. H. Gillis, J. E. Jouett.
4 Brigadier Generals, $5,500.	4 Commodores, $5,000.
REGIMENTAL OFFICERS:	SHIP OFFICERS:
5 Colonels, $3,500.	5 Captains, $4,500.
6 Lieutenant Colonels, $3,000.	6 Commanders, $3,500.
7 Majors, $2,500.	7 Lieutenant Commanders, $2,800.
COMPANY OFFICERS:	SUBORDINATE SHIP OFFICERS:
8 Captains, $2,000.	8 Lieutenants, $2,400.
9 First Lieutenants, $1,600.	9 Masters, $1,800.
10 Second Lieutenants, $1,500.	10 Ensigns, $1,200.

Representation in Congress for each Decade with Ratios.

RATIOS. ☞ (*Admitted after ratio was fixed.)	Constitution.	33,900.	33,900.	35,000.	40,000.	47,700.	70,680.	93,420.	127,000.	131,425.	151,912.	Territory, how obtained.
STATES.	1787.	1790.	1800.	1810.	1820.	1830.	1840.	1850.	1860.	1870.	1880.	
Alabama	.....	.....	.....	*1	3	5	7	7	6	8	8	Ceded by S. C. and Ga.
Arkansas	.....	.....	.....	.....	.....	*1	1	2	3	4	5	Part of Louisiana purchase.
California	.....	.....	.....	.....	.....	.....	*2	2	3	4	6	Ceded by Mexico.
Colorado	.....	.....	.....	.....	.....	.....	.....	.....	.....	*1	1	From France and Mexico.
Connecticut	5	7	7	7	6	6	4	4	4	4	4	One of original thirteen.
Delaware	1	1	1	2	1	1	1	1	1	1	1	One of original thirteen.
Florida	.....	.....	.....	.....	.....	.....	*1	1	1	2	2	Part of Florida purchase.
Georgia	3	2	4	6	7	9	8	8	7	9	10	One of original thirteen.
Illinois	.....	.....	.....	*1	1	3	7	9	14	19	20	Ceded to U. S. by Virginia.
Indiana	.....	.....	.....	*1	3	7	10	11	11	13	13	Ceded to U. S. by Virginia.
Iowa	.....	.....	.....	.....	.....	.....	*2	2	6	9	11	Part of Louisiana Purchase.
Kansas	.....	.....	.....	.....	.....	.....	.....	.....	*1	3	7	From France and Texas.
Kentucky	.....	*2	6	10	12	13	10	10	9	10	11	Ceded to U. S. by Virginia.
Louisiana	.....	.....	.....	*1	3	3	4	4	5	6	6	Part of Louisiana Purchase.
Maine	.....	.....	.....	*7	7	8	7	6	5	5	4	From Massachusetts.
Maryland	6	8	9	9	9	8	6	6	5	6	6	One of original thirteen.
Massachusetts	8	14	17	20	13	12	10	11	10	11	12	One of original thirteen.
Michigan	.....	.....	.....	.....	.....	*1	3	4	6	9	11	Ceded to U. S. by Virginia.
Minnesota	.....	.....	.....	.....	.....	.....	.....	*2	2	3	5	From Virginia and France.
Mississippi	.....	.....	.....	*1	1	3	4	5	5	6	7	Ceded by Ga. and S. Carolina.
Missouri	.....	.....	.....	.....	*1	2	5	7	9	13	14	Part of Louisiana purchase.
Montana	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	*1	Part of Louisiana purchase.

Nebraska	.....	.....	.....	.....	.....	.....	.....	.....	*1	1	3	Part of Louisiana purchase.
Nevada	.....	.....	.....	.....	.....	.....	.....	.....	*1	1	1	Part of Mexican cession.
New Hampshire	3	4	5	6	6	5	4	3	3	3	2	One of original thirteen.
New Jersey	4	5	6	6	6	6	5	5	5	7	7	One of original thirteen.
New York	6	10	17	27	34	40	34	33	31	33	34	One of original thirteen.
North Carolina	5	10	12	13	13	13	9	8	7	8	9	One of original thirteen.
North Dakota	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	*1	Part of Louisiana purchase.
Ohio	.....	.....	*1	6	14	19	21	21	19	20	21	Ceded to U. S. by Virginia.
Oregon	.....	.....	.....	.....	.....	.....	.....	*1	1	1	1	France, Spain and Great Britain.
Pennsylvania	8	13	18	23	26	28	24	25	24	27	28	One of original thirteen.
Rhode Island	1	2	2	2	2	2	2	2	2	2	2	One of original thirteen.
South Carolina	5	6	8	9	9	9	7	6	4	5	7	One of original thirteen.
South Dakota	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	*2	Part of Louisiana purchase.
Tennessee	.....	*1	3	6	9	13	11	10	8	10	10	Ceded to U. S. by N. Carolina.
Texas	.....	.....	.....	.....	.....	.....	*2	2	4	6	11	Independent republic.
Vermont	.....	*2	4	6	5	5	4	3	3	3	2	Ceded to U. S. by New York.
Virginia	10	19	22	23	22	12	15	13	11	9	10	One of original thirteen.
Washington	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	*1	Exploration and treaty.
West Virginia	.....	.....	.....	.....	.....	.....	.....	.....	*3	3	4	Portion of Virginia.
Wisconsin	.....	.....	.....	.....	.....	.....	*2	3	6	8	9	Ceded to U. S. by Virginia.
Totals	65	106	142	193	213	234	232	246	246	293	330	

UNITED STATES POSTAL REGULATIONS.

As Revised under Act of March 3d, 1885.

FIRST-CLASS MAIL MATTER.

LETTERS.—This class includes letters, postal cards, and anything sealed or otherwise closed against inspection, or anything containing writing not allowed as an accompaniment to printed matter, under class three.

Postage—2 cents each ounce, or additional fraction of an ounce, to all parts of the United States.

On local or drop letters, at free-delivery offices, 2 cents. At offices where there is no free delivery by carrier, 1 cent.

Prepayment by stamps invariably required. Postal cards, 1 cent.

Registered letters, 10 cents in addition to the proper postage. The Post-Office Department or its revenue is not by law liable for the loss of registered mail matter.

For immediate delivery, 10 cents additional postage, prepaid by special stamp, only at offices designated by the P. O. Department.

SECOND-CLASS.

REGULAR PUBLICATIONS.—This class includes all newspapers, periodicals, or matter exclusively in print and regularly issued at stated intervals as frequently as four times a year, from a known office of publication or news agency. Postage, 1 cent a pound or fraction thereof, prepaid by special stamps. Publications designed primarily for advertising or free circulation, or not having a legitimate list of subscribers, are excluded from the pound rate, and pay third-class rates. On newspapers and periodicals mailed by other than publishers or news agents, 1 cent for each 4 ounces or fractional part thereof.

THIRD-CLASS.

Mail matter of the third class includes books, circulars, unsealed publications for advertising purposes, and other matter wholly in print, legal and commercial papers filled out in writing, photographs, proof-sheets, corrected proof-sheets, and manuscript copy accompanying the same.

MS. unaccompanied by proof-sheets, letter rates.

Limit of weight, 4 pounds each package, except single books—weight not limited.

Postage, 1 cent for each 2 ounces or fractional part thereof—invariably prepaid by stamps.

FOURTH-CLASS.

Embraces merchandise and all matter not included in the first, second, or third class, which is not liable to injure the mail matter. Limit of weight, 4 pounds.

Postage, 1 cent each ounce or fraction thereof, prepaid.

All packages of matter of the third or fourth class must be so wrapped or enveloped that their contents may be examined by postmasters without destroying the wrappers.

Matter of the second, third, or fourth class containing any writing, except as here specified, or except bills and receipts for periodicals, or printed

commercial papers filled out in writing, as deeds, bills, etc., will be charged with letter postage; but the sender of any book may write names or addresses therein, or on the outside, with the word "from" preceding the same, or may write briefly on any package the number and names of the articles inclosed.

Postal Money Orders.

An order may be issued for any amount, from one cent to one hundred dollars, inclusive, but fractional parts of a cent cannot be included.

The fees for orders are: On orders not exceeding $10..... 8 cents

$10 to $15.....	10 cents	$50 to $ 60.....	30 "
15 to 30.....	15 "	60 to 70.....	35 "
30 to 40.....	20 "	70 to 80.....	40 "
40 to 50.....	25 "	80 to 100.....	45 "

When a larger sum than 100 dollars is required, additional orders must be obtained; but no more than three orders will be issued in one day from the same post-office to the same remitter in favor of the same payee.

Postal notes, for any sum under five dollars, are sold at any money-order post-office—price 3 cents each. These are payable to the bearer, at any designated post-office, within three months after their date.

Free Delivery.

The free delivery of mail matter at the residences of people desiring it is required by law in every city of 50,000 or more population, and may be established at every place containing not less than 10,000 inhabitants. The number of free-delivery offices (1889) is about 400.

The franking privilege was abolished July 1, 1873, but the following mail-matter may be sent free by legislative saving-clauses, viz.:

1. All public documents printed by order of Congress, the Congressional Record and speeches contained therein, franked by members of Congress or the Secretary of the Senate, or Clerk of the House.

2. Seeds transmitted by the Commissioner of Agriculture, or by any member of Congress, procured from that department.

3. All periodicals sent to subscribers within the county where printed.

4. Letters and packages relating exclusively to the business of the Government of the United States, mailed only by officers of the same, publications required to be mailed to the Librarian of Congress by the copyright law, and letters and parcels mailed by the Smithsonian Institution. All these must be covered by specially printed "penalty" envelopes or labels.

All communications to Government officers, and to or from members of Congress, are required to be prepaid by stamps.

Foreign Postage.

To the countries of Europe; to Newfoundland and Greenland; to the countries of America south of the United States, and of northern and western Africa; to Hindostan, China, Japan, Persia, Borneo, Burmah, Java, and the Phillipine Islands, five cents for letters and one cent for newspapers. To British American possessions, two cents and one cent. To Australia, twelve cents and two cents. Letter rate per half ounce.

TABULAR VIEW OF THE STATE

OFFICERS.	Created.	NO.	DUTIES.	HOW CHOSEN.
Senators,	Constitution.	54	Try Impeachments, Confirm Appointments. } Make Laws	By the People in Senatorial Districts.
Representatives,		114	Impeach, Originate Revenue Bills. } Make Laws	
Governor,	By the Constitution.	1	Execute Laws, Veto, Appointments, Pardons.	By the People of the State on a General Ticket.
Lieutenant-Governor,		1	Preside over Senate, Act as Governor in Vacancy.	
State Auditor,		1	Book-Keeper, Examine Accounts, Warrants, Land Commissioner.	
State Treasurer,		1	Custodian of State Funds.	
Secretary of State,		1	State Papers and Great Seal, Manual, Public Printing.	
Attorney General,		1	Represents State in Suits, Legal Advice to other State Officers.	
State Supt. Pub. Inst.	Except Librarian, by Statute.	1	Chief Educational Officer, Secretary of Educational Boards.	Appointed by the Governor and Confirmed by the Senate.
Public Examiner,		1	Inspect Books, &c., of State and County Financial Officers.	
State Librarian,		1	Take care of State Library.	
R. R. Commissioners,		3	Regulate Railroads and Warehouses, Appoint Grain Inspectors.	
Insurance Commissioner,		1	Authorize Operation of Insurance Companies.	
State Oil Inspector,		1	Render the Use of Illuminating Oils Safe.	
Dairy Commissioner,		1	Regulate Sale of Dairy Products.	
Surveyors-General,		7	Scale Logs, Record Marks, Secure Laborers' Liens.	
Administrative Boards,		Varies.	Immigration, Health, Fisheries, Charities, Taxes.	Appointed as Above.
Boards of Trustees,			State Institutions, Educational, Charitable and Penal.	
Justices of Supreme Court,	Constitution.	5	Interpret Laws, Try Appealed Cases,	By People of State.
Clerk of Supreme Court,		1	Keep Records of Supreme Court.	
Judges of District Courts,		21	Establish Justice in Counties.	By People in Judicial Dist.

TERM.	BEGINNING.	REMOVAL.	VACANCY.	BONDS.	SALARY.
4 years.	First Monday in January.	⅔ of Senate.	New Election.	None.	$5 a day and Mileage.
2 "		⅔ of H. of R.		"	Same; Speaker, $10.
2 years.		Impeachment by House of R. and Conviction by Senate.	Lieut.-Gov.	None.	$5,000 a year.
2 "			Not filled.	"	$10 a day during Leg.
4 "			New Election Ordered by Governor.	$20,000.	$3,600 a year.
2 "				$400,000.	$3,500 "
2 "				None.	$3,500 "
2 "				"	$3,500 "
2 years.		By Governor after due Examination.	New Appointment made by Governor.	None.	$2,500 a year.
3 "				$50,000.	$3,500 "
2 "				$2,000.	$2,000 "
2 "				$20,000 each.	$3,000 each.
2 "				$5,000.	$2,000 of Fees.
2 "				$5,000.	Fees.
2 "				None.	$1,800 and Expenses.
2 "				$5,000.	Fees.
Various.	Specified in Appointment.	Same as Above.	Same as Above.	None.	None, except Sec.
"				"	None.
6 years.	First Monday in January.	Impeachment and Conviction.	By New Election.	None.	$5,000 a year.
4 "				$1,000.	$1,500 a year and fees.
6 "				None.	$3,500 "

C.—HOW SOME THINGS ARE DONE.

HOW TAXES ARE LEVIED.

Definitions.—Taxes may be defined as the moneys contributed by the people to defray the public expenses. They are spoken of as direct and indirect, the former being paid *as* taxes, the latter as part of the price of a commodity.

Within the State.—Local and state taxes are all direct. They are meant to be proportioned to a person's ability to pay. In fact, however, a person's tax is based upon the value of his *discoverable property*. The value of such property is estimated by local officers called assessors. The estimates of these officers are reviewed by the local board, and the reviewed estimates are again examined and equalized by the county board. But assessors, local boards, and county boards are all tempted to make the estimates low, to reduce their share of taxation for the use of higher organizations. So a final review is made by the state board of equalization. The final estimates being reported to the computing officer, and the various sums to be raised having been reported to him, he finds the *rate* of taxation, computes the taxes, and turns the books over to the collecting officer.

Certain classes of property are exempt from taxation. Among those usually exempt may be mentioned property owned by the United States, the state, or the municipal corporation; church property; educational and charitable institutions; and a certain amount of personal property. United States bonds cannot be taxed.

By the General Government.—The sources of revenue to the general government are: 1, customs; 2, excises; 3, direct taxes; 4, public lands; 5, receipts from post offices, patents, copyrights, fines, escheats, &c. The last two classes cannot be called taxes. As it cannot compel a state to collect taxes for it, the general government is practically barred, on account of expense, from laying direct taxes. So that it is practically true that national taxation is all indirect. The "customs" are

duties on imports. The "excises," or internal revenue, consist of taxes on tobacco, fermented and alcoholic liquors, &c.

A Difficult Problem.—Though taxes have been levied for untold centuries, it is still one of the unsolved problems how to levy them so as to be just to all. Much progress has been made, but entirely satisfactory answers have not yet been wrought out to the questions: What are the proper things to tax? For what purposes should taxes be levied?

HOW THE GOVERNMENT BORROWS.

When an individual wishes to borrow money, he looks around for some one who has the money to spare and who has confidence enough in him to let him have it. He gives his note or bond, and gets the money. Similarly the United States borrows. The secretary of the treasury looks for lenders in the money-centers of the world, consults great banking-houses, and sometimes advertises in newspapers.

A private borrower pays for the use of the money, and similarly the debt of the United States is largely interest-bearing. The notes called "greenbacks" bear no interest, because, being legal tender, they circulate as money, as do also the gold and silver certificates of deposit.

HOW NATIONAL BANKS ARE ESTABLISHED.

Organization.—Associations for carrying on the business of banking may be formed by any number of natural persons not less than five. A signed and certified copy of the articles of association is forwarded to the comptroller of the currency; also a certificate giving the name of the association, its place of business, its capital, the number of shares and their owners.

Capital.—The minimum capital required is: in cities of less than 6000 inhabitants, $50,000; less than 50,000 inhabitants, $100,000; others, $200,000.

Powers.—Such associations have the usual corporate and banking powers. In addition, they may issue bank bills, obtained thus: Upon depositing with the U. S. Treasurer registered bonds of the United States, to an amount not less than $30,000 nor less than one-third of its capital, the bank receives from the comptroller of the currency bills of value not to

exceed ninety per cent of the par value of the bonds. These after being signed by the president and the cashier of the bank are legal tender.

HOW TO OBTAIN A COPYRIGHT.

[By A. R. Spofford, Librarian of Congress.]

Every applicant for a copyright must state distinctly the name and residence of the claimant, and whether right is claimed as author, designer, or proprietor. No affidavit or formal application is required.

A printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph; or a description of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts, for which copyright is desired, must be sent by mail or otherwise, prepaid, addressed, "Librarian of Congress, Washington, D. C." This must be done before publication of the book or other article.

A fee of 50 cents, for recording the title of each book or other article, must be inclosed with the title as above, and 50 cents in addition (or one dollar in all) for each certificate of copyright under seal of the Librarian of Congress, which will be transmitted by early mail.

Within ten days after publication of each book or other article, two complete copies must be sent prepaid, or under free labels, furnished by the Librarian, to perfect the copyright, with the address, "Librarian of Congress, Washington, D. C."

Without the deposit of copies above required the copyright is void, and a penalty of $25 is incurred.

No copyright is valid unless notice is given by inserting in every copy published, "Entered according to the act of Congress, in the year ——, by ——, in the office of the Librarian of Congress, at Washington," or, at the option of the person entering the copyright, the words: "Copyright, 18—, by ——."

The law imposes a penalty of $100 upon any person who has not obtained copyright who shall insert the notice "Entered according to act of Congress," or "Copyright," or words of the same import, in or upon any book or other article.

Each copyright secures the exclusive right of publishing the book or article copyrighted for the term of twenty-eight years. Six months before the end of that time, the author or designer, or his widow or children, may secure a renewal for the further term of fourteen years, making forty-two years in all.

Any copyright is assignable in law by any instrument of writing, but such assignment must be recorded in the office of the Librarian of Congress within sixty days from its date. The fee for this record and certificate is one dollar.

A copy of the record (or duplicate certificate) of any copyright entry will be furnished, under seal, at the rate of fifty cents.

Copyrights cannot be granted upon Trade-marks, nor upon Labels intended to be used with any article of manufacture. If protection for such prints or labels is desired, application must be made to the Patent Office, where they are registered at a fee of $6 for labels and $25 for trade-marks.

Up to 1849 the secretary of state had the care of issuing copyrights. It was then assigned to the department of the interior, newly created. In 1870 it was transferred to the librarian of congress.

HOW TO OBTAIN A PATENT.

1. The person desiring a patent must declare upon oath that he believes himself to be the inventor or discoverer of the art, machine, or improvement for which he solicits the patent.

2. He must also give in writing a definite and minute description of it, accompanied by drawings to illustrate. If necessary, he must make and deliver to the commissioner of patents a model of his invention.

To be patentable, the invention must be new, unused and unknown before, and useful.

The invention is carefully examined by the appropriate expert at the patent office, and if found to be deserving a patent is issued, signed by the secretary of the interior, countersigned by the commissioner of patents, and sealed with his seal. This gives the patentee the sole right of manufacture and sale and use for seventeen years. The right to make, sell, or use the invention may be sold by the patentee. He may assign the patent entire, an interest in it, or the exclusive right for a certain specified district.

HOW AN ALIEN BECOMES A CITIZEN.

1. Declaration of Intention.—An alien, who has come to the United States after reaching the age of eighteen, may appear before any court of record in the United States having common law jurisdiction, or the clerk thereof, and declare upon oath that it is *bona fide* his intention to become a citizen of the United States, and to renounce forever "all allegiance to any foreign prince, potentate, state, or sovereignty whatever," and particularly by name the potentate or sovereignty whereof such alien may at any time have been a citizen or subject. This declaration is recorded, and a certified copy of it is furnished by the clerk of the court to the person so declaring his intention. He is then said to have his "first papers." See page 290.

2. The Final Step.—After two years from the time of declaring his intention, provided that he has resided in the United States continuously for five years, and also at least one year within the state or territory wherein the court is held, he may appear in open court and there upon oath renounce all allegiance, as declared in his statement of intention, and swear to support the constitution of the United States. If he has borne any hereditary title, he must renounce it. He must have two witnesses to certify to his residence and to his moral character. These proceedings are recorded, and he is given a certificate of naturalization. See page 291.

An alien arriving in the United States before reaching the age of eighteen and continuously residing therein until making his application for citizenship, provided that he has resided in the United States five years, may on coming of age be admitted to citizenship at once, without the interval between the declaration and the consummation. He must, however, make declaration, must prove his moral character by two witnesses, and must satisfy the court that for three years it has been *bona fide* his intention to become a citizen of the United States.

Status of Minors.—The naturalization of a man confers citizenship upon his wife and upon such of his children as are minors at the time. A child of his born in this country, either before or after his naturalization, is a "natural-born" citizen. This is also the case if the child is born on the ocean while the parents are coming to this country, provided that they are coming with the intention of seeking citizenship. If an alien dies after declaring his intention, his wife and minor children may become citizens upon taking the oath required.

Losing Citizenship.—By treaties with Austria, Baden, Bavaria, Belgium, Great Britain, Germany, the Grand Duchy of Hesse, Mexico, Norway and Sweden, Denmark, and Wurtemberg, it is provided that "a renewal of domicile in the mother country, with the intent not to return (and two years' residence is presumptive evidence of such intent), shall work renewal of the former allegiance."

In some of the treaties it is further provided that when the subject has emigrated to avoid military duty, "the right to exact which was complete before his departure, such service may be enforced on his return in spite of intervening naturalization."

HOW CITIZENS ABROAD ARE PROTECTED.

One of the things that makes citizenship desirable is the protection which it secures. This is particularly grateful when one is in a foreign country. What a feeling of strength and security one has when far away from home among strangers to know that his rights must be respected, to realize that behind him is the might of the nation!

Passports.—A United States passport is an instrument in writing, issued by the secretary of state and under his seal, informing the world that the bearer is a citizen of the United States, that he travels under its protection. That passport is a means of identification for the bearer and secures to him all the rights and privileges guaranteed to citizens of the United States by treaties with the country in which he may be traveling.

Passports, as a means of ingress or egress, are now required in only a few countries of Europe. For the convenience of citizens who may have left home without securing passports, arrangements have been made whereby they may be obtained from our representatives in foreign countries.

Another kind of passport is that for American ships. Each ship-master obtains one before leaving for a foreign port. It tells the nationality of the ship, shows that she is under the protection of the United States.

Consuls.—These are the business representatives of the government residing in foreign lands. They are "the guardians of their countrymen against the vexations, injuries, and injustices of the country where they reside; and they exercise certain police powers over all the individuals of their nation" within their respective consulates.

The origin of consulates dates back to the time of the Crusades. They were instituted by the great commercial cities of the Mediterranean. The Pisans, Venetians, and Genoese had trading-places in various parts of Asia, and they secured from the princes of the countries where these trading-posts were located the right to have judges or arbitrators of their own nation located at each of these posts who were privileged to settle disputes between citizens of these cities in accordance with their own laws. At first, then, the consuls were only arbitrators in commercial matters. But their prerogatives

have increased until now they are intrusted with the protection of merchants of their country in their relations with the countries to which they come to trade.

In some countries, such as China, Japan, Siam, and Turkey, our consuls are by treaty invested with judicial powers. They try and punish American citizens for crimes committed there.

Incidentally it is the duty of a consul to provide for sick, disabled or destitute American seamen, and to send them home to the United States; to receive and take care of the personal property of any American citizen who dies within his consulate, and to forward to the secretary of state the balance remaining after the necessary funeral expenses, to be held in trust for the heirs.

Some of the consular reports contain very valuable information regarding the products and industries of the countries where they are located. These reports can easily be obtained through a member of congress.

HOW WE ARE PROTECTED AT HOME.

Life.—Our lives are protected very carefully, not only against crime, but also against accident. Taking human life is made the worst crime and suffers the severest punishment. Death-dealing weapons, such as revolvers and dirks, cannot lawfully be carried concealed. Poisons are cautiously sold, and usually a record is made of the sale. If death results from accident the person to blame is held responsible. But every precaution is taken to prevent accidents. Lamps are provided for streets; fast driving is prohibited; horses are not allowed to be left standing unhitched; business dangerous to life, such as powder-making, must be carried on at a distance from residences; railroads are required to stop trains at crossings, to ring a bell in going through a town, to carry axes and buckets to be used in case of fire; steamboats must be inspected, and must be supplied with life-boats, life-preservers, and other appliances.

Health.—To protect our health precautions are taken against the outbreak of preventable diseases, such as diphtheria, typhoid fever, etc., by requiring cleanliness in yards and alleys; and against small pox by requiring vaccination. The government also supports hospitals for the care of the sick.

Reputation.—To secure to each person as good a reputation as his character will warrant it is made a crime to make false

and malicious statements about any one. If spoken, the malicious statement is called slander; if written or printed, it is called libel. The essential elements of these crimes are malice and injury. If a false statement is made without intent to injure, it is not slander. And a true statement injuring another must not be made except for a proper purpose.

Liberty.—This includes all those rights guaranteed in the Bills of Rights of the several constitutions, and the right to come and go without restraint, the right to choose a vocation and to change it, and other rights. To appreciate the protection received in this direction, the student should read up the history of each of the guarantees, and of caste, curfew, passports, etc.

Property.—"The right of private property covers the acquiring, using, and disposing of anything that a person may call his own, including time and labor." A person's property rights may be interferred with in so many ways that many laws are necessary to protect him. A brief outline of commercial law is given elsewhere.

HOW ELECTIONS ARE CONDUCTED.

Electors.—The voters of each state are designated by the constitution thereof. See page 300.

Time.—The time of elections is usually also a matter of constitutional provision. The local (town, village, and city) elections are, in most if not all of the states, held in the spring; probably because the public improvements contemplated are to be made chiefly in the summer. The general elections are held in the fall. This may be partly at least, in order that the official year may begin with the calendar year.

Place.—Towns, villages, and city wards are the usual election precincts, but any of these may be divided if necessary. The location of the polling-place is determined by the convenience of the voters.

Supervision.—Each polling-place is in charge of supervisors of election, usually three. In towns and villages, the regular trustees supervise the elections. In cities, three persons for each precinct are appointed to act by the council. The supervisors are assisted by one or two clerks.

Registration.—To prevent fraud, it is required that a person shall have been a resident of the precinct in which he

offers to vote for at least ten days. In the cities, where population fluctuates greatly, it has been found necessary to require voters to register before the day of election; that is, to enroll their names and places of residence with the officers of election.

Notices.—Due notice of the times and places of registration and election is given, at least ten days in advance.

Voting.—This is by ballot, the two chief reasons being, (*a*) to permit the voter to express his choice uninfluenced by any one else; (*b*) to facilitate the voting.

The voter hands to the chairman of the supervisors his ballot, folded so as to conceal the names. After ascertaining from the other supervisors that the name of the person offering the vote is registered, or being satisfied in some other way that he is entitled to vote, the chairman, in the presence of the voter, deposits the ballot in the box. The voter's name is then checked on the register, and enrolled by the clerks on the "list of persons who have voted."

Counting.—Each name as it is written by the clerks is numbered, and the supervisors in checking the register do so by writing the number of the vote. At the close of the polls, therefore, the number of persons who have voted is known. The ballots are then turned out of the box upon a table, and, without being unfolded, are carefully counted, to see whether they correspond in number with the records. If, as once in a while happens, it is found that there are too many ballots, those in excess are drawn hap-hazard from the pile by the supervisors and destroyed. The ballots are then unfolded, and the count of the persons voted for is carefully made and recorded. These proceedings are all open to the public.

Reporting.—In local elections, the result of the vote is read by a clerk to those present. An abstract of the vote is filed in the office of the clerk of the corporation, and a list of the persons elected is sent to the auditor (clerk) of the county. The names of the justices of the peace and the constables are reported to the clerk of the court.

In general elections, the abstract of the vote is sent to the county auditor. He makes a general abstract of the vote of the county on state officers, members of congress, and presidential electors, and sends it to the state auditor. He also sends to the same officer a list of the persons elected to county

offices. An abstract of the vote is published in one or more of the county papers.

Canvassing Boards.—The persons composing these boards are designated by statute. The secretary of the organization is always a member. He is usually assisted by two or more judicial officers.

Certificates of Election.—These are furnished to officers-elect by the secretary of the organization. Certificates of members of congress and presidential electors are signed by the governor and the secretary of state, and are authenticated by the state seal.

Defects.—With all the thought that has been given to the subject, it is still an unsolved problem how to secure "a free vote and a fair count." Of the two purposes given above to be subserved by the use of the ballot rather than by *viva voce* voting, the first is too commonly not realized. Perhaps the greatest danger to our government is bribery of the voter.

A remedy suggested.—The main reliance for the purity of the ballot must of course be the intelligence and uprightness of the people, and he who enlightens and uplifts one or more individuals is to that extent truly a patriot.

The second reliance is the removal of temptation. There may be "honor among thieves," but wrong doing makes a person suspicious, and if the briber could not see the bribed deposit his ballot he would have no good reason for believing that he did it.

In Australia they have a plan which seems to obviate bribery, and to have certain other incidental advantages. The plan includes two main features: 1. The printing of ballots at state expense, the ballots to contain all the nominees of all the parties and appropriate blank spaces for the insertion of other names; 2. The secret preparation of the ballot by the voter and his casting it in the presence of the officers only. The operation of the plan slightly modified, as now proposed in Massachusetts, is briefly this: In the polling room as now, is the ballot-box; this none but those in the act of voting and the officers are allowed to approach. As the voters enter the enclosed area a stile numbers them, and an officer hands each a ballot, containing the names of all nominees. The voter takes this into a booth, and makes a cross in ink opposite the

name of each person that he wishes to vote for. Having thus prepared his ballot alone, he deposits it in the usual way.

The advantages promised by this plan are obvious. The printing of the ballots at state expense would do away with one of the pretexts for bleeding a candidate for "legitimate expenses." It would take their occupation from the ticket-peddlers, and do away with the deceiving "pasters." The electors would be freed from the nuisance of personal solicitation or dictation. The polling-places would be quieter and more orderly. Best of all, it would greatly minify the evils of bribery for reasons given above.

The principle is certainly a good one, and the machinery is worthy of the careful consideration of our legislators.

Later: This system is now used in several states.

WHY AND HOW NOMINATIONS ARE MADE.

A political party may be defined as a number of persons holding similar views in relation to one or more questions of public policy, and who through unity of action seek to have these views prevail.

The great instrument for securing unity is the convention. It may be a mass meeting, or, as is more usual among the large and well-organized parties, a convention of delegates. In either case it is, be it remembered, not a part of the elective machinery designed by the legislature, but a political device to increase the chances of victory through unity of purpose and action.

Party organization consists of "committees"—town, village, city-ward, county, state, and national. The local committees are chosen by the resident partisans; the county committees by the county conventions; the state committees by state conventions; and the national committee, consisting usually of one member from each state, by the delegates of the respective states to the national convention. Each committee chooses its own chairman and secretary. Besides those mentioned, there are district committees, such as congressional-district committees, senate-district committees, etc., whose members are appointed in a manner similar to that given above. The term of a member is, as might be expected, from the close of one regular convention to the close of the succeeding one.

Thus a town committeeman's term is one year, while that of a national committeeman is four years.

The mode of nominating a candidate for the presidency of the United States will illustrate the way of making nominations in general.

1. By long-established practice, each state is entited to twice as many delegates to the national convention as the number of its presidential electors, and each territory to two delegates. Thus, Minnesota being entitled to seven electors, may send fourteen delegates: and New York, having thirty-six electors, is entitled to seventy-two votes in the national convention. A delegate may vote by proxy.

2. Though the popular election does not take place until November, the national conventions are usually held in June or July. This is probably to allow plenty of time for the campaign.

3. To allow the machinery time to grind out the delegates, the national committee, having early determined upon the time and place for holding the convention, issues its "call" some months in advance, say in February or March. This is published in the newspapers throughout the country.

4. The next step in the process is the issuance of calls by the several state committees. These are issued as soon as practicable after that of the national committee, and usually appoint the state convention for the latter part of May.

5. In some states all of the delegates to the national convention are chosen by the state convention. But the number of states is increasing, and properly so, in which each congressional district chooses its own two delegates, leaving only the four "delegates at large" to be chosen by the state convention. In these states, the next step is the call of the district committee for a convention slightly antedating that of the state.

6. As soon as practicable after the district call is announced, the several county committees issue their call for county conventions, to be held shortly before the district convention.

7. Lastly, the local committees issue their calls, usually giving a week or ten days' notice. The local convention is called a "caucus."

8. Then in succession the local, county, district, state, and national conventions are held. The caucuses send representa-

tives to the county conventions, which in turn choose the deputations to the district and state conventions, and these finally select the delegates to the national convention. An equal number of "alternates" are chosen at the same time. The state convention also names the presidential electors to be supported by the party.

Thus the national convention is the first to be called and the last to be held, while the caucuses are the last to be called and the first to be held. The caucuses are the real battling-place for the people.

The delegates from each convention receive certificates of election signed by the chairman and secretary thereof. These "credentials" are given to prevent fraud, and constitute the delegates' title to seats in the convention to which they are sent.

The first step taken in the national convention, after securing a "temporary organization," is the appointment of a committee on credentials and another on permanent organization, by the temporary chairman. When the former committee reports, it is known who are entitled to participate in the proceedings; and when the latter committee reports, the convention almost invariably adopts the report and thereby perfects its organization. A committee on rules and one on platform are then appointed.

The states are then called in aphabetical order, and each one that cares to, presents to the convention the name of her "favorite son." Thus in the republican convention of 1860, when Illinois was called, the name of Abraham Lincoln was presented; and when New York was called, the name of William H. Seward was presented, and so on.

When the "roll of the states" is completed, the balloting begins. In the republican convention, nomination is by majority vote; in the democratic, it takes a two-thirds vote to nominate.

The vice-president is then nominated in a similar manner.

After adopting a platform the convention adjourns.

HOW CONGRESS IS ORGANIZED.*

The United States senate is a permanent body. Two-thirds of its members hold over from one congress to another, and its organization continues through vacations.

* See also Among the Lawmakers, chapter III.

But the terms of all members of the house of representatives expire March 4 of the odd-numbered years, and, though many of the old members are re-elected, the house must be reorganized at the beginning of each congress. The mode is briefly as follows:

1. At the first session, the house is called to order by the clerk of the preceding house, who then calls the roll of members-elect* by states. If a quorum is found to be present, the clerk declares it to be in order to proceed to the election of a speaker. The vote is *viva voce* on the call of the roll, each member when his name is called pronouncing the name of his choice for speaker. Election is by majority of the votes given. The result is declared by the clerk, who "then designates two members (usually of different politics, and from the number of those voted for as speaker) to conduct the speaker-elect to the chair; and also one member (usually that one who has been longest in continuous service a member of the house) to administer to him the oath required by the constitution."†

The speaker then administers the oath to the members individually, each advancing to the chair as his name is called. Sometimes a number are sworn in together.

3. The organization is completed by the election of a clerk, a sergeant-at-arms, a doorkeeper, a postmaster, and a chaplain. The vote is *viva voce*, and the term is "until their successors are chosen and qualified"—usually about two years, though all are subject to removal at the will of the house.

The delegates from the territories are then sworn in.

"At this stage it is usual for the house to adopt an order that a message be sent to the senate to inform that body that a quorum of the house of representatives has assembled, and that ——— ———, one of the representatives from the state of ———, has been elected speaker, and ——— ———, a citizen of the state of———, has been chosen clerk, and that the house is now ready to proceed to business."†

Each house then orders a committee of three members to be appointed, the joint committee "to wait upon the president of the United States and inform him that a quorum of the two houses has assembled, and that congress is ready to receive

*The members-elect have previously sent him their certificates of election, received from the state canvassing board.

† Manual of the House of Representatives.

any communication he may be pleased to make."* It is in order then for the president to forward his message to congress.

The above are the *usual* proceedings, and they generally occur on the first day of the session.

The seating of the members is by lot, except in the case of certain members privileged by very long experience or otherwise, who are by courtesy permitted to make the first selection. Each member is numbered, and corresponding numbers are placed in a box "and thoroughly intermingled." Then the numbers are drawn from the box successively by a page, the member whose number is drawn first having first choice of seat, and so on. This may be done while the committees are waiting on the president, as above described.

HOW CONTESTED ELECTIONS ARE SETTLED.

"Each house shall be the judge of the elections, returns, and qualifications of its own members."—Constitution, I., 5, 5.

A contested election resembles very much in its mode of settlement the trial of a civil suit.

1. Within thirty days after the result of the election is made known, the contestant must serve upon the person declared elected by the canvassing board a notice of intention to contest his seat, and the grounds therefor.

2. Within thirty days of receiving said notice, the member-elect must answer it, stating specifically the grounds of his defense, and must serve a copy of this answer upon the contestant.

3. Ninety days are then allowed for the taking of testimony —the first forty to the contestant, the second forty to the member-elect, and the remaining ten to the contestant for testimony in rebuttal.

Testimony may be taken before any United States, state or municipal judge, notary public, or by two justices of the peace. The opposite party must have due notice of the times and places of taking the evidence; but testimony may be taken at several places at the same time. The witnesses are summoned by subpœna served in the usual way. The examination of the witnesses is by the officer issuing the subpœna, but

* Manual of the House of Representatives.

either party may propose questions. The questions and answers are committed to writing, and authenticated.

All the papers in each case, certified, carefully sealed, and the envelopes indorsed with name of the case, are sent by mail to Washington, addressed to the clerk of the house in which s the contested seat.

The matter is referred to the committee on elections.* This committee having carefully considered the matter may bring in its report at any time, this being what is known as a "privileged question." The decision is by majority vote of the house interested.

In the meantime the person who has obtained the certificate of election from the state canvassing board is presumed to have been elected, and is treated accordingly.

In order that lack of means may not compel a man to submit to a wrong, and that the real will of the congressional district as expressed in the election may be ascertained, the contestant may be allowed not to exceed two thousand dollars for expenses.

HOW AN IMPEACHMENT CASE IS CONDUCTED.

"The house of representatives * * * shall have the sole power of impeachment."—Constitution I., 2, 3.

"The senate shall have the sole power to try all impeachments."—Ib., I., 3, 6.

"The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."—Ib., II., 4, 17.

The house, having resolved that a certain civil officer be impeached, orders that a committee be appointed to notify the senate of the fact; and to state that "the house of representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same;" and to demand that the senate prepare to try the impeachment.

The house then, on motion, appoints a committee (usually of five members) to prepare carefully the articles of impeachment.† The report of this committee, having been considered

*This is the oldest of all the committees, having been established at the beginning of the first congress.

†This corresponds to the indictment of a grand jury.

in committee of the whole, is reported to the house, with such amendments as seem necessary. If the report is agreed to by the house, a committee of five "managers" is appointed to conduct the impeachment on the part of the house.

The senate is then notified by the clerk of the house, that the managers, naming them, have been appointed, and that the articles of impeachment are ready to be exhibited.

The senate having appointed the time when it would resolve itself into a court of impeachment notifies the house. At the appointed time the managers carry the articles to the senate, and on their return report to the house.

The senate then issues a summons to the defendant, ordering him to file his answer with the secretary of the senate by a certain day.

On the day appointed, the house, having resolved itself into committee of the whole, attends the trial in the senate chamber. The next day the house attends similarly, if a reply is to be made to the defendant's answer. During the taking of the testimony only the managers attend, the house devoting itself to its regular business. When the case is ready for argument, the house attends daily, as committee of the whole.

The report of the final action of the senate is made to the house by the chairman of the committee of the whole.

In an impeachment trial the senate is both judge and jury. But, for convenience, the functions of judge are usually performed by the president of the court of impeachment; and a senator may be called upon to testify.

The secretary of the senate corresponds to the clerk of the court, and the sergeant-at-arms corresponds to the sheriff in an ordinary court.

"On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately; and if the impeachment shall not, upon any of the articles presented, be sustained by the votes of two-thirds of the members present, a judgment of acquittal shall be entered; but if the person accused in such articles of impeachment shall be convicted upon any of said articles by the votes of two-thirds of the members present, the senate shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the secretary of state."*

* Manual of the United States Senate.

Only seven cases of impeachment of United States officers have occurred. To save space they are shown in tabular form:

Time	Name.	Office.	Charge.	Result.
1798	William Blount..	U. S. Senator from Tennessee.....	Intrigues with Indians.....	Case dismissed; not an "officer."
1803	John Pickering..	U. S. district judge, N. H...	Intemperance and malfeasance in office.....	Removed from office
1804	Samuel Chase....	Associate Just. U. S. Sup. Ct..	Partiality and injustice.....	Acquitted.
1830	James Peck.....	U. S. district judge, Mo.....	Abuse of power....	Acquitted..
1860	West W. Humphreys..	U. S. district judge, Tenn..	Treason in advocating and aiding secession.....	Removed and disqualified.
1868	Andrew Johnson	President of the United States.	Violation of Tenure of Office act and other crimes.....	Acquitted by one vote.
1876	William W. Belknap.	Sec'y of war ...	Malfeasance in of'ce & accepting bribes	Acquitted.

* See Thomas Jefferson, American Statesmen Series, pp. 259-63.

HOW UNITED STATES SENATORS ARE ELECTED.

"The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof."—Constitution, I., 3, 1.

The time of this election is the second Tuesday after the meeting and organization of the legislature. If a vacancy occurs in the senate during the session of the legislature, the election occurs on the second Tuesday after notice of the vacancy is received by the legislature.

On the day appointed, the roll of each house being called, each member responds by naming one person for the senatorship. The result of the vote is entered on the journal of each house by the clerk thereof.

The next day at noon, the members of both houses convene in joint assembly, and the journal of each house is read. If the same person has received a majority of all the votes in each house, he is declared elected.

But if no person has received such majority, the joint assembly proceeds to choose, by *viva voce* vote of each member present, a person for senator. A quorum consists of a majority of each house, and a majority of those present and voting is necessary to a choice.

If no one receives such majority on the first day, the joint assembly meets daily at noon, and takes at least one vote, until a senator is elected.

A certificate of election is made out by the governor, countersigned and authenticated under seal of the state by the secretary of state, and forwarded to the president of the senate of the United States.

HOW THE ELECTORAL VOTE IS COUNTED.

"The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the vote shall then be counted."—Constitution, Amendment XII.

The constitution gives no directions as to the *manner* of counting. No trouble was experienced, however, until the Hayes-Tilden election. The result of this election depended upon the votes of three states, each of which sent in two conflicting sets of certificates. There being no legal provision for the settlement of such disputes, the famous electoral commission was created to determine which certifitates should be counted. It consisted of five senators, five representatives, and five justices of the supreme court.

The gravity of the danger thus appearing made it obviously necessary that some general plan be devised whereby such disputes might be obviated. Though consideration of the subject began at once, and various measures were from time to time proposed, no satisfactory solution was presented until February 3, 1887, when the Electoral Count Bill was passed and received the signature of the president.

An outline of the bill is here given, the principal provisions being the second and sixth as here numbered.

1. The electors shall meet and vote on the second Monday in January following their election.*

2. If there be any disputes as to the choice of the electors, they are to be settled in the respective states in the way that each state shall determine, provided that the laws governing the matter shall have been passed before the election, and that disputes shall have been settled at least six days before the

*The time of meeting had been the first Wednesday in December. The change was made to give time for the settlement of any disputes, as provided in the second section.

time fixed for the meeting of the electors. A report of the contest and its mode of settlement shall be made by the governor, and forwarded under seal to the secretary of state of the United States.

3. As soon as practicable after it shall have been ascertained who have been chosen electors, the executive of the state shall transmit under the seal of the state to the secretary of state of the United States the names of the electors, with an abstract of the popular vote for each candidate for elector. The executive shall also deliver to the electors, on or before the day of meeting, three copies of said certificate, one of which the electors shall enclose with each "list of persons voted for as president and vice-president."

4. As soon as practicable after receiving the certificates as aforesaid, the secretary of state shall publish them in full in such newspaper as he shall designate; and at the first meeting of congress thereafter he shall transmit to each house a copy in full of each certificate received.

5. The counting of the vote will take place, as heretofore, on the second Wednesday in February following the meeting of the electors. At one o'clock in the afternoon the senate and house of representatives meet in the hall of the house of representatives, and the president of the senate takes the chair.

"Two tellers shall be previously appointed on the part of the senate and two on the part of the house of representatives, to whom shall be handed, as they are opened by the president of the senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the states, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules in this act provided the result of the same shall be delivered to the president of the senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected president and vice-president of the United States, and, together with a list of the votes, be entered on the journals of the two houses."

6. Upon the reading of each certificate the president of the senate asks whether there be any objections to it. Objection must be made in writing, and must "state clearly and concisely, and without argument, the ground thereof." To entitle it to consideration, the objection must be signed by at least one senator and one representative.

When all the objections to any paper have been received and read, the senate withdraws, and the two houses proceed separately to consider them.

If from any state but one set of electors are certified, and the certification has been done as prescribed in section three, the certificate cannot be rejected. But if not properly certified, the two houses acting concurrently "may reject the vote or votes when they agree that such vote or votes have not been so regularly given by those whose appointment has been so certified."

If more than one return has been received from any state, those votes only shall be counted which have been determined as provided in section two.

If two or more returns appear, each certified by authorities claiming to be the lawful tribunal of the state, the vote shall be counted which the two houses, acting separately, "concurrently decide is supported by the decision of such state so authorized by its laws."

If more than one return comes in from any state, no determination such as is prescribed in section two having been made, the two houses concurrently decide which, if any, of the votes shall be counted. If in such a case the houses disagree, the votes of those electors shall be counted whose appointment shall have been certified by the executive of the state.

When the case in question has been disposed of, the joint session is resumed and the counting continued.

7. In the joint meeting, the president of the senate has authority to preserve order. No debate is allowed, and no question can be put, "except to either house on a motion to withdraw."

8. When discussing an objection, in separate session, no member can speak more than once, and then for not longer than five minutes. The entire time for discussion is limited to two hours.

9. Provision is made for the seating of every one entitled to

a seat on the floor of the house; and the act declares that "such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared."

Some time after the passage of the law, it was discovered that a strange omission had been made. By the old law, the electors in each state were required to appoint a messenger to take one of the certificates of votes cast, and deliver it to the president of the senate on or before the *first Wednesday* in January. By the new law the electors do not meet until the *second Monday* in January. The inconsitency was remedied, however, by a supplementary act, providing that certificates shall be forwarded "as soon as possible," and authorizing the president of the senate to send for missing certificates on the fourth Monday in January.

HOW FUGITIVES FROM JUSTICE ARE EXTRADITED.

Extradition is "the delivering up to justice of fugitive criminals by the authorities of one state or country to those of another."*

The duty of extradition between the states of this republic is imposed by the federal constitution, IV., 2; and the mode of procedure is prescribed by an act of congress passed in 1793. The term "other crimes" used in the constitution is generally interpreted "so as to include any offense against the laws of the state or territory making the demand." On the question whether the executive upon whom demand is made is bound to comply, the federal courts have decided that his duty in the matter is imperative; that he must deliver up the fugitive, unless the accused shall also be under prosecution for breach of the laws of the state to which he has fled.

The procedure is this: "The accused must be indicted in the state in which the crime was committed, or a charge must be brought against him before a magistrate, who, if satisfied that the charge is true, issues a warrant for the arrest of the criminal. A copy of the indictment or affidavit is forwarded to the executive of the state, and he issues to the executive of the state to which the fugitive has gone, a requisition for his surrender. If the executive upon whom the requisition is made is satisfied that the papers are regular and the proof of

* Laylor's Cyclopedia of Political Science.

the crime sufficient," he issues a warrant "for the arrest and delivery of the accused to the agent of the state making the demand."

The expense of these proceedings is borne by the state making the demand.

Between nations extradition is regarded as a matter of comity, and is based upon special treaty. "In this country, power to make such a surrender is conferred upon the executive* only where the United States are bound by treaty, and have a reciprocal right to claim similar surrender from the other power." In relation to the crimes for which extradition may be demanded, it may be said in general that they are specified in the treaty, and are such offenses as are recognized as crimes by both countries. Consequently no two treaties are exactly alike. Generally only things wrong in themselves, not things wrong by local prohibition, are included. Offenses merely political are not included; and "as opinions differ in different countries on what constitutes a political crime, the surrendering nation is very properly made the judge of this question."

As a corollary to the preceding, it is a well-established rule of international law, that the surrendered party can be tried only on the allegations for which extradition has been accorded. This principle is also generally recognized among the states.

HOW A COURT MARTIAL IS CONDUCTED.

A court martial is "a court consisting of military or naval officers, for the trial of offenses against military or naval laws."

Courts martial are of three classes, general, garrison, and regimental. General courts martial consists of from five to thirteen officers, appointed by a general or by the president. Garrison and regimental courts martial consist of three officers appointed respectively by the garrison and the regimental commanders. Only general courts martial have jurisdiction of capital offenses.

There are two marked characteristics of courts martial. First, the accused is tried, not as in a civil court by his peers,

* This of course means the president, as states cannot treat with foreign powers.

but by his superiors. Second, there is no distinction between judge and jury; the officers comprising the court act in both capacities—they determine the fact and apply the law. Sentence is by majority vote, except that to pronounce sentence of death a two-thirds vote is necessary.

For convenience, one of the officers is designated to act as president by the order convening the court. As prosecutor in the case, and also as the *responsible* adviser of the court, a judge-advocate is appointed, usually by the same order. The accused is entitled to counsel; but if he is unable to obtain any, the judge-advocate "must insist upon all rights belonging to the accused under the law and the evidence."

The "findings" of a court martial must in each case be transmitted to the convening authority and by it be approved, before being carried into execution. "In time of peace, no sentence of a court martial involving loss of life or the dismissal of a commissioned officer, and either in time of peace or war no sentence against a general officer, can be carried into effect without approval by the president of the United States."

The jurisdiction of courts martial extend only over offenses committed by persons enlisted in the military or the naval service of the country.

WHY AND HOW TERRITORIES ARE ORGANIZED.

The organization of territories in the United States is for two purposes: to provide good government while population is sparse, and to encourage their development into self-governing commonwealths, and their incorporation into the federal system as rapidly as possible. See page 217.

Territories are organized by congress. In the organic act the boundaries of the territory are defined, and a system of government is established. In recent years, the usual arrangement has been that the lower house of the legislature shall be chosen by the people, that the governor, the council (upper house), secretary, and the judges of the supreme and circuit courts shall be appointed by the president of the United States. A system of local government is also outlined.

Each territory may elect a delegate to a seat in the U. S. Congress. The delegate may debate but not vote.

WHY AND HOW THE PUBLIC LANDS ARE SURVEYED.

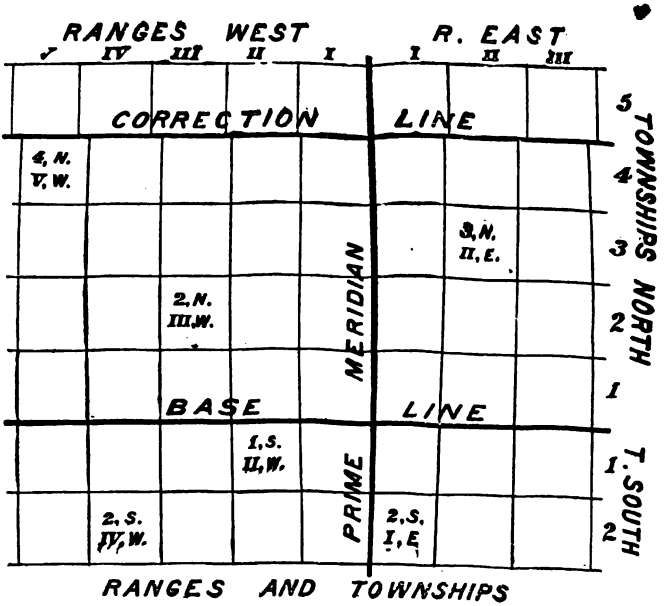
The public lands are not meant to be held forever by the general government. They are designed to be owned and occupied by American citizens. To divide the land into pieces in order to facilitate the description and the location of any piece, is the principal purpose of the survey. Incidentally the portions six miles square serve as bases for the political divisions called towns, and this was part of the original plan.

The "old thirteen" and Maine, Vermont, Kentucky, Tennessee, and West Virginia were surveyed in a very irregular way. Lands were described as bounded by lines running from stumps to stones, thence to a creek and down the main channel thereof. In 1785, a committee of the continental congress was appointed, with Thomas Jefferson as chairman, to devise a simple and uniform mode of surveying the public lands in what was about to be organized as the Northwest Territory.

The most noticeable peculiarity of the system is that it is rectangular. A prime meridian is first determined, then a base-line crossing it at right angles. Then from points on the base-line six miles and multiples thereof from the meridian, lines are run due north. And parallels to the base-line are run at distances of six miles. The approximate squares thus formed are called townships. The rows of townships running north and south are called ranges. Townships are numbered north and south from the base-line; ranges east and west from the meridian. The diagram on page 341 illustrates the system.

Since meridians all terminate at the poles, the lines between ranges, being meridians, gradually approach each other as they go northward. The lines, then, soon become so much less than six miles apart that a new beginning has to be made. The parallel upon which this correction is made is naturally called the correction line. Corrections were at first made every thirty-six miles, but they are now made every twenty-four miles.

The first prime meridian starts at the mouth of the Great Miami and forms the western boundary of Ohio. The second prime meridian begins at the mouth of Little Blue Creek, in Indiana. The third, at the mouth of the Ohio; the fourth at the mouth of the Illinois; and the fifth at the mouth of the Arkansas.



6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

The numbering of sections in a township.

N. W. ¼ of Section		N.W. ¼ or N.E. ¼	N.E. ¼ of N.E. ¼
		S. ½ of N.E ¼	
S.W. ¼		S.E. ¼	

Divisions of a section.

The first prime meridian has several base-lines. The base-line of the second meridian crosses it about twenty-four miles north of its point of beginning, and the base-line of the third is a continuation of that of the second. The principal base-line of the fourth meridian coincides with the southern boundary of Wisconsin. It has also a short base-line about six miles north of Quincy, Ills. The base-line of the fifth meridian is just south of Little Rock, Ark.

From the first meridian most of Ohio is surveyed; from the second, Indiana and the eastern twenty-four miles of Illinois; from the third, the rest of Illinois, except a small portion north of Quincy; from the fourth, the portion of Illinois just referred to, all of Wisconsin, and that part of Minnesota east of the Mississippi; from the fifth, Arkansas, Missouri, Iowa, Minnesota west of the Mississippi, and the Dakotas east of the Missouri.

The sixth coincides with meridian 97° 22′, west of Greenwich. From it are surveyed Kansas, Nebraska, Dakota south and west of the Missouri, Wyoming, and all of Colorado except the valley of the Rio Grande del Norte.

Michigan, Florida, Alabama, Mississippi, and the states and territories in the far west are surveyed from special meridians.

A map showing in detail all the surveys may be obtained through a member of congress.

HOW TO SECURE PUBLIC LANDS.

Location of Lands.—The public lands of the United States not yet disposed of lie in nineteen states* and eight territories.

Classes.—Only surveyed lands are subject to entry. These are of two classes, one of whose minimum price is $1.25 per acre, the other whose minimum price is $2.50 per acre. The latter consist of alternate sections reserved in railroad grants, &c.

Modes of securing.—Individuals may secure public ands under the homestead law, the pre-emption law, the timber-culture act, under military land warrants, or by purchase.

Homestead.—Any citizen or person who has declared his intention to become such, may obtain from the general government, without cost, except the mere expense of making the

* Alabama, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, Wisconsin.

records, 160 acres of the $1.25 land, or 80 acres of the $2.50 land, after five years of occupancy.

Pre-emption.—Any head of a family or citizen over twenty-one years of age may settle upon any unclaimed quarter section, and secure prior right of purchase by complying with certain conditions.

Timber Culture.—To encourage the growing of timber on public lands, an act was passed in 1873, whereby any settler who has cultivated for two years as much as five acres of trees to an 80 acre tract open to homestead, or ten acres to 160 acres, may at the end of eight years obtain a patent, if a certain percentage of the trees are then living. More than one quarter section may be secured by one person under the timber culture act, but the tracts cannot be contiguous.

Land Warrants.—These were given mostly for military service under acts of congress; but few entries are now made on them, because they have been largely used or absorbed.

Purchase.—Lands which have not been reserved for some purpose may be purchased for cash by any one wishing them.

HOW SLAVERY WAS ABOLISHED IN THE SEVERAL STATES.

The slave *trade* was prohibited by congress in 1808. From that time on it was a felony to bring slaves into the United States.

Slavery never legally existed in the states carved out of the Northwest Territory. It was forbidden by the ordinance of 1787.

Vermont abolished it in forming her state constitution in 1777.*

Massachusetts, by constitution, 1780.

Pennsylvania, gradual abolition by statute, began in 1780; had 64 in 1840.

New Hampshire, by constitution, 1783.

Rhode Island and Connecticut, gradual abolition, 1784.

New York began in 1799, finished July 4, 1827.

New Jersey began in 1804, but had 18 in 1860.

By the Missouri compromise, 1820, slavery ceased "in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36 degrees and 30 min-

* Before her admission into the Union.

utes north latitude,"* except Missouri. This part of the act was, in the Dred Scott case, declared by the supreme court to be invalid, still a provision forbidding slavery found its way into the constitution of each of the states afterward seeking admission.

By the emancipation proclamation, Jan. 1, 1863, the slaves of those in arms against the United States were declared free.

The thirteenth amendment, adopted 1865, abolished slavery in all parts of the United States.

HOW VOTING IS DONE IN LEGISLATIVE BODIES.†

Acclamation.—The most common way of voting on ordinary questions is by acclamation; that is, when a question is put those in favor of it say "aye," and then those opposed say "no." In this case, a majority of those voting prevails. This is sometimes called voting *viva voce.*

Division.—If the presiding officer is uncertain as to which side is in the majority, he may call for a division, or this may be demanded by any member. Then those voting in the affirmative stand and are counted, after which those voting in the negative do similarly.

Yea and Nay.—On important questions in congress, or on any question by demand of one-fifth of the members, the vote is by "yeas and nays" that is, the roll is called, and each member responds "yea" or "nay." In some states, including Minnesota, *all bills* must be voted on in this way, and must receive a majority of the total membership in order to pass.

HOW LAWS ARE MADE.

Framing a Bill.—A bill is a proposed law. The framing or drawing up of a bill may be done by any person. For instance, a citizen desiring legislation on any matter may formulate a bill for consideration by the legislature. But many requests for legislation come in the form of petitions, in which case the member to whom the matter is committed by the petitioners usually frames the bill. Many bills originate in committee, some of them as substitutes.

Bringing in.—At the time set in the daily order of business for introducing bills, the member announces his bill by

* Thomas amendment to act for admitting Missouri.
† See also Among the Lawmakers, pp. 168-70.

title, which should indicate the matter considered therein, and sends it to the clerk's desk.

First Reading.—No bill can pass without at least three readings. When a bill is first presented, the clerk reads it at the table, and hands it to the speaker, who, rising, states to the house the title of the bill, and that this is the first reading of it.

Commitment.—Unless objection is made, the bill, if not one which has been formulated by a committee, is then referred for careful consideration to a committee, standing or special. The number of subjects coming before a legislative body is too great to permit the initial consideration of each by the whole body. It is a note-worthy fact that our law-making is virtually committee legislation. All bills for appropriating money shall before passage be referred to the finance committe.

Second Reading.—When reported favorably by the committee, with amendments, such amendments must be read in full, and if they are adopted the bill passes to its second reading, which is by title only. If the bill is of a general nature, it is printed and placed on the General Orders or list of bills ready for committee of the whole.

Committee of the Whole.—This consists of the entire membership of the house. Its work is to perfect bills before they come up for final passage. To this end great freedom of debate is permitted. This is the last opportunity to offer amendments, except by unanimous consent. When the house resolves itself into committee, the regular presiding officer leaves the chair after designating a member to act as chairman. When the committee rises, the presiding officer resumes the chair and the chairman of the committee reports its action. Bills reported favorably are engrossed, that is, rewritten neatly as amended, and are placed on the Calendar, or list of bills ready for third reading.

Third Reading.—This is in full, and the question is on the passage of the bill. If passed the bill is sent to the other house, with the announcement that it has passed the first house.

Action in other House.—The bill is treated in the other house as in the first. If passed, it is returned similarly to the house in which it originated. If passed with amendments, these are considered.

Enrollment.—When it has passed both houses, the bill is plainly and accurately written on parchment, under supervision of the committee on enrolled bills.

Signing.—The enrolled bill is signed by the presiding officer of each house, and, if he approves it, by the executive.

Disposition.—The bill is then carried by the executive to the secretary of state, who deposits it among the archives. Copies are made for publication.*

D.—SOME PRINCIPLES OF INTERNATIONAL LAW.

Nature and Origin.—A savage meeting in the forest a person whom he has never seen before is apt to look upon him as a foe. As civilization increases, danger to one's personal rights decreases, and stranger ceases to mean enemy. It has gradually come about that the confidence and courtesy shown to one another by men in their individual relations have extended to the relations of states. Morality, reason, and custom have established among the nations certain rules of conduct with respect to one another. The rules constitute what is called international law.

As might be guessed, international law is a matter of comparatively recent origin, and exists only among the most highly civilized nations. Not being the enactment of any general legislative body, having no courts competent to pass upon it nor executive to enforce its provisions, this law must be framed by agreement, and its carying out must rest upon national good faith.

PEACE RELATIONS.

The great purpose of international law being to preserve peace by removing the causes of war, we shall first consider some of the arrangements operative in times of peace.

Non-interference.—Among individuals it is found that, as a rule, it is best for each person to mind his own business. Similarly, among nations non-interference by one with the internal affairs of another is a cardinal principle.

* Read Among the Lawmakers, pp. 60-64.

It is, therefore, a general rule that a people may adopt such form of government as they choose, and that whenever they wish they may amend or entirely alter it.* And the government formed has a right to operate without dictation from other powers. Nor has any foreign nation a right to inquire *how* the government has come into being; sufficient that it *is* the government.

This right of a nation to manage its own affairs is called *sovereignty*. It belongs to a small independent nation as completely as to a large one. The act of one government in acknowledging the validity and sovereignty of another is called *recognizing* it. (See page 349, last paragraph.)

It is sometimes a delicate question to determine whether to recognize a community as a nation or not. Thus, if a dependency is seeking to become independent, our personal sympathies are naturally with it, and yet it might be contrary to the law of nations, an "unfriendly act" to the sovereign power, for our government to recognize its independence. During the struggle of the Spanish-American colonies for separate political existence, John Quincy Adams, then (1822) secretary of state, formulated the proper rule of action thus: "In every question relating to the independence of a nation two principles are involved, one of *right* and the other of *fact*, the former exclusively depending upon the determination of the nation itself, and the latter resulting from the successful execution of that determination. * * * The government of the United States yielded to an obligation of duty of the highest order by recognizing as independent states nations which, after deliberately asserting their right to that character, have maintained and established it against all the resistance which had been or could be brought to oppose it. This recognition is * * * the mere acknowledgment of existing facts." †

Although sovereignty implies the right of a government to enter freely into such relations with any other nation as may be mutually agreeable, the nations of Europe feel at liberty in self-defense to interfere with any arrangements that threaten the "balance of power." Thus France would feel justified in opposing a very close alliance between Prussia and Spain.

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* A change in the form of government does not release the nation from prior obligations.

† Wharton's International Law Digest, Volume I., page 162.

It is our good fortune not to have any dangerous neighbors. We are reasonably sure of peace so long as we act in accordance with the counsel of Washington, "Friendly relations with all, entangling alliances with none."

Jurisdiction.—It is clear that the authority of a nation properly extends over the land within its borders and over its inland waters. It is equally clear that no nation should have exclusive jurisdiction over the ocean. It is generally understood that a nation's authority extends out into the sea a marine league from shore. But difficulty is encountered in determining a rule of jurisdiction over bays, straits, wide-mouthed rivers and other coast-waters. Shall the United States of right freely navigate the St. Lawrence to its mouth, and the British the Yukon? Should Denmark receive tribute of ships passing through the sounds to the Baltic, and may Turkey prohibit foreign war vessels from passing through the Bosphorus? Is the mouth of the Amazon part of the "high seas?" Is Hudson's Bay? Is Delaware Bay? The difficulty is to formulate a rule that shall not unnecessarily abridge commercial freedom but shall still have due regard to national defense. The question at large is not settled yet, but it seems to be agreed that in the cases of bays not more than ten miles wide at the mouth, the marine league shall be measured from a straight line joining the headlands.

"The United States cannot purchase a grant of land in, or concession of right of way over, the territories of another nation, as could an individual or a private corporation."

Intercourse.—While as an act of sovereignty a nation may shut out from its borders any or all of the rest of mankind, intercourse is so natural and is usually so mutually profitable that such prohibition is almost unknown among civilized nations. Intercourse is regulated in different nations in various ways. Some limit or control it by a passport system; some by special supervision of strangers; some by a protective tariff; others by giving to one nation commercial privileges not given to another.

Among the general rules that govern intercourse are these: Aliens are entitled to protection from violence for themselves and their property. They are amenable to the laws of the country in which they are sojourning, except in certain oriental and other partly civilized countries. Aliens may expatriate

themselves and may become naturalized in the land of their adoption. "The right of emigration is inalienable; only self-imposed or unfulfilled obligations can restrict it."*

The principle that crime should be tried and punished where committed stands in the way of the trial of a culprit who has escaped to another country. But for mutual protection most of the civilized nations have treaties for the extradition of criminals. The United States have extradition treaties with over twenty countries. (See How Criminals Are Extradited, page 337.)

Ambassadors and Consuls.—We have considered briefly the rights and duties of individual sojourners in foreign lands. Let us now consider the modes and means of intercourse between the governments themselves.

Formerly when a nation wished to come to an understanding with another it sent a special messenger clothed with necessary authority to act; but for about two hundred years these representatives have, as a rule, taken up their residence at the capitals of the countries to which they are sent.

There are various grades of these ambassadors. Ours in order of rank are envoys-extraordinary and ministers plenipotentiary, ministers resident, envoys, charges d'affaires, and, temporarily, secretaries of legation.

"Ambassadors always and everywhere have had special immunities and often something of a sacred character. * * * Neither puplic authority nor private persons can use any force, or do any violence to him, without offending against the law of nations."† This immunity extends to his house, furniture, and attendants. Except in extreme cases, he is exempt from civil or criminal process.

These diplomatic agents are appointees of the executive. Official communications with the president are made through the secretary of state. "In all negotiations between nations, sovereign should always speak to sovereign and minister to minister."

A country may decline to receive *any* embassador from a certain nation; and this may be necessary in case of a civil war in which two parties claim to be the legal authorities, be-

* Heffter, quoted in Woolsey's International Law.

† Except that if necessary for self-defense, passive resistance may be made.

cause receiving the ambassador of one party would be equivalent to recognizing it as the legitimate authority. And it may, without offense, decline to receive a *particular* ambassador, on account of some objection to him personally. It may also decline to treat with a minister who has so deported himself as to become distasteful.

When an ambassador arrives at the capitol of the country to which he is sent, he seeks an interview with the secretary in charge of foreign affairs and delivers to him a copy of his credentials. Afterwards on a day appointed for the purpose, the secretary presents him to the executive (sovereign or president), to whom he delivers the original.

Ambassadors of all grades are expected to avoid all interference with political movements in the countries where they are stationed.

Consuls are the commercial agents of a country. They are stationed at the principal ports of the world. Their chief functions are:

1. To furnish their government information that may be of service in the commercial relations of the countries.

2. To settle disputes between masters and crews of merchant vessels in the port sailing under the protection of the flag of the consul's country.

3. To reclaim deserters from vessels, and provide for destitute seamen.

4. In some non-Christian lands to act as judge in cases in which a countryman or other person from a Christian state is a party.

Treaties.—Treaties are contracts* between nations, and in international law much resemble ordinary contracts in municipal law. For instance, they can be made only by certain

*This from Woolsey's International Law is too good to be omitted: "A contract is one of the highest acts of human free-will; it is the will binding itself in regard to the future, and surrendering its right to change expressed intention, so that it becomes morally and jurally a wrong to act otherwise; it is the act of two parties in which each or one of the two conveys power over himself to the other in consideration of something done or to be done by the other. The binding force of contracts is to be deduced from the freedom and foresight of man, which would have almost no sphere in society or power of co-operation, unless trust could be excited. Trust lies at the basis of society; society is essential for the development of the individual; the individual could not develop his free forethought unless an acknowledged obligation made him sure in regard to the actions of others. That nations as well as individuals are bound by contract, will not be doubted when we remember that they have the same properties of free will and foresight; that they can have no safe intercourse otherwise."

persons—the constituted authorities of nations, or by persons specially deputed by them for that purpose. A treaty cannot obligate to do an unlawful act. There must be consideration —a treaty which sacrifices the interests of one party is not binding upon that party. Treaties obtained by fraud or force are not binding.

Further similarity between municipal and international law is to be seen. The minister appointed to negotiate the treaty is an agent, and his work is subject to the general law of agency. Thus, if he acts within his instructions, his principal (the nation) is bound by what he does, and the treaty-making power is in honor bound to ratify the treaty. From this it will properly be inferred that there is an implied understanding that the sovereign, or other power intrusted with the making of treaties, reserves the right to accept or reject the work of the agent.

Remedy.—In municipal law, remedy for a wrong is obtained through the courts, if personal influence fails. Among nations there is no general court having jurisdiction. If redress cannot be obtained by remonstrance, arbitration, or other peaceful means, it may be sought through retaliation or finally in war.

WAR RELATIONS.

"International law assumes that there must be wars and fightings among nations, and endeavors to lay down rules by which they shall be brought within the limits of justice and humanity."

Causes.—A nation may wage war to defend any right which as a state it is bound to protect, to redress wrong, or to prevent injury; for instance, to defend its own sovereignty; to protect a citizen in his rights; to obtain satisfaction for insults to its flag, its ambassadors, or its good name; for the violation of treaty rights; to prevent injury, as by checking the onward march of some "conquering hero." War for conquest is not now recognized as legitimate.

Beginning.—"War between independent sovereignties, is and ought to be, an *avowed, open* way of obtaining justice." Even among the ancients announcements were usually made before war was begun. The Greeks sent a herald to carry the news. "Among the Romans the ceremonies of making known

the state of war were very punctilious." But formal declarations of war are now falling into disuse; not from any intention of taking the enemy unawares, but because of the rapidity with which news is now disseminated. Still a state is in honor bound to indicate in some way its changed relation. This is due to the enemy, and just to its own citizens and to neutrals, that they may know how to act. The enemy is usually informed by the peremptory dismissal of its amdassador; the citizens and neutrals by a manifesto of some kind. (See p. 354.)

Between whom.—War being an interruption of peaceful relations, commerce between the citizens is at an end—is forbidden. Contracts between them then become either "impossible in their nature" or "unlawful," and therefore void.

The war is not between the individual citizens of the two countries, it is between the governments and is waged by authorized agents—the soldiers and sailors enlisted for the purpose. "The smallest amount of injury consistent with self-defense and the sad necessity of war, is to be inflicted." Passive citizens are not unnecessarily to be molested.

Weapons.—*Not* "all things are fair in war." Though ingenuity may properly tax itself to produce death-dealing instruments, underhanded means, such as poisoning springs or spreading a plague, are condemned; nor is it now regarded as consistent with right for a civilized nation to employ against another, persons accustomed to an inhuman mode of warfare.

Heralds and Spies.—Heralds bearing flags of truce are inviolable—they must not be molested. Spies, unless in their regimentals, are subject to the death penalty if caught.

Pirates and Privateers.—Pirates, acting under no authority, having no purpose to serve except to enrich themselves at the expense of any one else, are not protected by any nation, and may be put to death by any one capturing them. But privateers, acting as an arm of the government and by its authority, granted by its letters of marque and reprisal, must be treated as prisoners of war.

Prisoners of War.—Prisoners taken in war were formerly the property of their captors, to be used for their pleasure or profit as slaves. Modern usage requires that they be merely detained; that they be fed and sheltered with reasonable comfort, and not treated with any unnecessary harshness. A common practice, worthy of encouragement, is that of ex-

changing prisoners, thus restoring them to their own side. Sometimes, too, prisoners are released on *parole*, that is, on their word of honor not to re-enter the army. If a paroled prisoner breaks his word in this respect, upon recapture he is liable to be put to death.

Termination.—Peace comes by treaty. There is usually a preliminary treaty, containing the general statement of conditions to which both parties will consent. When all the details have been arranged, a definitive treaty is concluded. Treaties of peace go into effect as between the parties, when they are signed; as between individuals of the billigerent nations, when they are notified.

RIGHTS AND OBLIGATIONS OF NEUTRALS.

When intercourse between the countries of the world was small, owing to lack of facilities, the rights of neutrals were regarded as unimportant. But intercourse has increased so enormously, that no great war can be waged without interfering with the interests of almost all the rest of the world, and the rights of neutrals are assuming more importance in international law.

The great obligation resting upon neutrals is "to allow nothing to the billigerents which either would object to as being adverse to his interests."

What Neutrals may do.—The common instincts of humanity may be complied with. Thus a ship of war in distress may run into a neutral port. Soldiers running into neutral territory may be disarmed and then protected as non-combatants.

Things Contraband.—It is a breach of neutrality to lend money or furnish troops or munitions of war to a billigerent, or to allow ships of war to be built by citizens of the neutral power within its borders, if it knows or should know that they are to be armored and used in the service of one of the belligerents.

Citizens of Neutral States.—Members of a neutral state may lend money to a billigerent or may go into the army or navy of a billigerent without breach of the neutrality of their nation. They may sell goods, except materials of war, to either billigerent.

Blockade.—A billigerent may, as a war measure, close the ports of the enemy. This is called a blockade. Two things are necessary to make a blockade valid—due notice must be given, and the blockade must be made effective by placing before the ports armed vessels to prevent the entrance of trading vessels. If the conditions have been complied with, neutrals trade with the port at the risk of losing all captured ships and cargoes.

DECLARATION OF WAR—1812.

An act declaring war between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their territories.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That war be, and the same is hereby declared to exist between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their territories; and that the President of the United States is hereby authorized to use the whole land and naval force of the United States to carry the same into effect, and to issue to private armed vessels of the United States commissions, or letters of marque and general reprisal, in such form as he shall think proper, and under the seal of the United States, against the vessels, goods, and effects, of the government of the United Kingdom of Great Britain and Ireland and the subjects thereof.

* Drawn by William Pinckney, Attorney General of the United States.

E. — DOCUMENTS.

ACT AUTHORIZING A STATE GOVERNMENT.

[Passed February 26, 1857.]

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the inhabitants of that portion of the Territory of Minnesota which is embraced within the following limits, to-wit: beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and the British Possessions crosses the same; thence up the main channel of said river to that of the Bois de Sioux River; thence up the main channel of said river to Lake Traverse; thence up the centre of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its centre to its outlet; thence by a due south line to the north line of the State of Iowa; thence along the northern boundary of said state to the main channel of the Mississippi River; thence up the main channel of said river, and following the boundary line of the State of Wisconsin, until the same intersects the St. Louis River; thence down the said river to and through Lake Superior on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British Possessions; thence up Pigeon River and following said dividing line to the place of beginning, be, and they hereby are authorized to form for themselves a constitution and state government by the name of the State of Minnesota, and to come into the Union on an equal footing with the original states, according to the federal constitution.

SEC. 2. And be it further enacted, That the State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said state and any state or states now or hereafter to be formed or bounded by the same; and said river or waters leading into the same shall be common highways, and forever free, as well to the inhabitants of said state as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

SEC. 3. And be it further enacted, That on the first Monday in June next, the legal voters in each representative district then existing within the limits of the proposed state, are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the apportionment for representatives to the territorial legislature, which election for delegates shall be held and conducted, and the returns made, in all respects in conformity with the laws of said territory regulating the election of representatives; and the delegates so elected shall assemble at the capitol of said territory on the second Monday in July next, and first determine by a vote whether it is the wish of the people of the proposed state to be admitted into the Union at that time; and if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a state government, in conformity with the federal con-

stitution, subject to the approval and ratification of the people of the proposed state.

SEC. 4. And be it further enacted, That in the event said convention shall decide in favor of the immediate admission of the proposed state into the Union, it shall be the duty of the United States marshal for said territory to proceed to take a census or enumeration of the inhabitants within the limits of the proposed state, under such rules and regulations as shall be prescribed by the Secretary of the Interior, with a view of ascertaining the number of representatives to which said state may be entitled in the Congress of the United States. And said state shall be entitled to one representative, and such additional representatives as the population of the state shall, according to the census, show it would be entitled to according to the present ratio of representation.

SEC. 5. And be it further enacted, That the following propositions be, and the same are hereby offered to the said convention of the people of Minnesota for their free acceptance or rejection; which, if accepted by the convention, shall be obligatory on the United States, and upon the said State of Minnesota, to-wit:

First.—That sections numbered sixteen and thirty-six in every township of public lands in said state, and where either of said sections, or any part thereof, has been sold or otherwise disposed of, other lands, equivalent thereto, and as contiguous as may be, shall be granted to said state for the use of schools.

Second.—That seventy-two sections of land shall be set apart and reserved for the use and support of a state university, to be selected by the Governor of said state, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the legislature of said state may prescribe, for the purpose aforesaid, but for no other purpose.

Third.—Ten entire sections of land to be selected by the Governor of said state, in legal sub-divisions, shall be granted to said state for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof.

Fourth.—That all salt springs within said state, not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said state for its use; and the same to be selected by the Governor thereof within one year after the admission of said state, and, when so selected, to be used or disposed of on such terms, conditions and regulations as the legislature shall direct; provided, that no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said state.

Fifth.—That five per centum of the net proceeds of sales of all public lands lying within said state, which shall be sold by Congress after the admission of said state into the Union, after deducting all the expenses incident to the same, shall be paid to said state for the purpose of making public roads and internal improvements, as the legislature shall direct; provided, the foregoing propositions herein offered, are on the condition that the said convention which shall form the constitution of said state, shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said state shall never inter-

fere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

ACT ADMITTING MINNESOTA INTO THE UNION.

[Passed May 11, 1858.]

WHEREAS, an act of Congress was passed February twenty-sixth, eighteen hundred and fifty-seven, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and state government preparatory to their admission into the Union on an equal footing with the original states;" and whereas, the people of said territory did, on the twenty-ninth day of August, eighteen hundred and fifty-seven, by delegates elected for that purpose, form for themselves a constitution and state government, which is republican in form, and was ratified and adopted by the people at an election held on the thirteenth day of October, eighteen hundred and fifty-seven, for that purpose; therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Minnesota shall be one, and is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever.

SEC. 2. And be it further enacted, That said state shall be entitled to two representatives in Congress, until the next apportionment of representatives amongst the several states.

SEC. 3. And be it further enacted, That from and after the admission of the State of Minnesota, as hereinbefore provided, all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within that state as in other states of the Union; and the said state is hereby constituted a judicial district of the United States, within which a district court with the like powers and jurisdiction as the district court of the United States for the district of Iowa, shall be established; the judge, attorney and marshal of the United States for the said district of Minnesota, shall reside within the same, aud shall be entitled to the same compensation as the judge, attorney and marshal of the district of Iowa; and in all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of Minnesota Territory, the mandate of execution or order of further proceedings shall be directed by the supreme court of the United States to the district court of the United States for the district of Minnesota, or to the supreme court of the State of Minnesota, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Minnesota Territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

RESTORATION OF TENNESSEE TO THE UNION, 1866.

(Thirty-ninth Congress, First Session.)

Joint resolution restoring Tennessee to her relations to the Union.

Whereas, in the year eighteen hundred and sixty-one, the government of the state of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of the state in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas, said state government can only be restored to its former political relations in the Union by consent of the law-making power of the United States; and whereas, the people of said state did on the twenty-second day of February, eighteen hundred and sixty-five, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a state government has been organized under said constitution which has ratified the amendment to the constitution of the United States abolishing slavery, also the amendment proposed by the thirty-ninth Congress, and has done other acts proclaiming and denoting loyalty; Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by senators and representatives in Congress.

Approved, July 24, 1866.

THE MECKLENBURGH RESOLUTIONS—1775.

I. Resolved, That whosoever directly or indirectly abets, or in any way, form, or manner countenances the unchartered and dangerous invasion of our rights, as claimed by Great Britain, is an enemy to this country, to America, and to the inherent and inalienable rights of man.

II. Resolved, That we do hereby declare ourselves a free and independent people; are, and of right ought to be a sovereign and self-governing association, under the control of no power, other than that of our God and the general government of the congress: To the maintainance of which independence we solemnly pledge to each other our mutual co-operation, our lives, our fortunes, and our most sacred honor.

III. Resolved, That as we acknowledge the existence and control of no law or legal officer, civil or military, within this county, we do hereby ordain and adopt as a rule of life, all, each, and every one of our former laws, wherein, nevertheless, the crown of Great Britain never can be considered as holding rights, privileges, or authorities therein.

IV. Resolved, That all, each, and every military officer in this county is hereby reinstated in his former command and authority, he acting conformably to their regulations, and that every member present of this delegation, shall henceforth be a civil officer, viz.: a justice of the peace, in the character of a committee man, to issue process, hear and determine all matters of controversy, according to said adopted laws, and to preserve

peace, union, and harmony in said county, to use every exertion to spread the love of country and fire of freedom throughout America, until a more general and organized government be established in this province.

ABRAHAM ALEXANDER, Chairman.

JOHN MCKNITT ALEXANDER, Secretary.

NOTE.—This declaration of independence (with a supplementary set of resolutions establishing a form of government) was adopted by a convention of delegates from different sections of Mecklenburgh county, which assembled at Charlotte May 20, 1775.

AGREEMENT BETWEEN THE SETTLERS AT NEW PLYMOUTH.

In the name of God, amen. We, whose names are underwritten, the loyal subjects of our dread Sovereign Lord King James, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. Having undertaken for the glory of God, and advancement of the Christian faith, and the honour of our king and country, a voyage to plant the first colony in the northern parts of Virginia;

Do by these presents, solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politick, for our better ordering and preservation, and furtherance of the ends aforesaid. And by virtue hereof do enact, constitute and frame, such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the colony, unto which we promise all due submission and obedience.

In witness whereof we have hereunto subscribed our names at Cape Cod the eleventh of November, in the reign of our Sovereign Lord King James, of England, France, and Ireland, the eighteenth, and of Scotland, the fifty-fourth, anno domini, 1620.

John Carver,	Samuel Fuller,	Edward Tilly,
William Bradford,	Christopher Martin,	John Tilly,
Edward Winslow,	William Mullins	Francis Cooke,
William Brewster,	William White,	Thomas Rogers,
Isaac Allerton,	Richard Warren,	Thomas Tinker,
Miles Standish,	John Howland,	John Ridgdale,
John Alden,	Steven Hopkins,	Edward Fuller,
John Turner,	Digery Priest,	Richard Clark,
Francis Eaton,	Thomas Williams,	Richard Gardiner,
James Chilton,	Gilbert Winslow,	John Allerton,
John Craxton,	Edmund Margesson,	Thomas English,
John Billington,	Peter Brown,	Edward Doten,
Joses Fletcher,	Richard Bitteridge,	Edward Liester,
John Goodman,	George Soule.	

NOTE.—The "Pilgrims" who landed at Plymouth had procured before leaving Europe a grant of land from the London or South Virginia Company, but had subsequently decided to establish a colony in New England. Before leaving the ship which had brought them across the Atlantic they drew up this compact. They obtained several successive letters patent from the Plymouth Company, but none of them were confirmed by the crown, and in 1691 the Plymouth colony was annexed to Massachusetts Bay.

TEXAS DECLARATION OF INDEPENDENCE—1836.

Whereas, General Antonio Lopez de Santa Anna and other military chieftains have, by force of arms, overthrown the federal institutions of Mexico, and dissolved the social compact which existed between Texas and the other members of the Mexican Confederacy,—Now, the good people of Texas, availing themselves of their natural rights, solemnly declare:

1st. That they have taken up arms in defense of their rights and liberties, which were threatened by the encroachments of military despots, and in defense of the republican principles of the federal constitution of Mexico of eighteen hundred and twenty-four.

2nd. That Texas is no longer, morally or civilly, bound by the compact of union; yet, stimulated by the generosity and sympathy common to a free people, they offer their support and assistance to such of the members of the Mexican Confederacy as will take up arms against military despotism.

3d. That they do not acknowledge that the present authorities of the nominal Mexican Republic have the right to govern within the limits of Texas.

5th. That they hold it to be their right, during the disorganization of the federal system and the reign of despotism, to withdraw from the union, to establish an independent government, or to adopt such measures as they may deem best calculated to protect their rights and liberties, but that they will continue faithful to the Mexican government so long as that nation is governed by the constitution and laws that were formed for the government of the political association.

6th. That Texas is responsible for the expenses of her armies now in the field.

7th. That the public faith of Texas is pledged for the payment of any debts contracted by her agents.

8th. That she will reward by donations in land, all who volunteer their services in her present struggle, and receive them as citizens.

These declarations we solemnly avow to the world, and call God to witness their truth and sincerity; and invoke defeat and disgrace upon our heads, should we prove guilty of duplicity.

RICHARD ELLIS, President.

A. H. S. KIMBLE, Secretary.

TREATY WITH GREAT BRITAIN—1846.

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, deeming it to be desirable for the future welfare of both countries that the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two parties over the said territory, have respectively named plenipotentaries to treat and agree concerning the terms of such settlement, that is to say:

The President of the United States of America has, on his part, furnished with full powers James Buchanan, Secretary of State of the United

States, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, has, on her part, appointed the Right Honorable Richard Parkenham, a member of Her Majesty's Most Honorable Privy Council, and Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;

Who after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Brittanic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: *Provided, however,* That the navigation of the whole of the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both parties.

ARTICLE II.

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall, in like manner, be free and open.

In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present treaty.

ARTICLE III.

In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

ARTICLE IV.

The farms, lands, and other property of every description belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia River, shall be confirmed to the said company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States Gov-

ernment should signify a desire to obtain possession of the whole, or of any part thereof, the property so required shall be transferred to the said Government, at a proper valuation, to be agreed upon between the parties.

ARTICLE V.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Brittanic Majesty; and the ratifications shall be exchanged at London, at the expiration of six months from the date hereof, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington the fifteenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

JAMES BUCHANAN. [L. S.]
RICHARD PARKENHAM. [L. S.]

NOTE.—This treaty was concluded at Washington, June 15, 1846, ratifications were exchanged July 17, 1846, and it was proclaimed Aug. 5, 1846.

EMANCIPATION PROCLAMATION.

Whereas on the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty two, a proclamation was issued by the President of the United States, containing, among other things, the following, to-wit:

"That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State, or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons, and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

"That the Executive will, on the first day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State, or the people thereof, shall on that day be in good faith represented in the Congress of the United States, by members chosen thereto at elections wherein a majority of the qualified voters of such state shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State, and the people thereof, are not then in rebellion against the United States."

Now, therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as Commander-in-Chief of the Army and Navy of the United States in time of actual armed rebellion against the authority and Government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my purpose so to do, publicly proclaimed for the full period of one hundred days, from the day first above mentioned, order and designate as the States and parts of States wherein the people thereof

respectively are this day in rebellion against the United States, the following, to-wit:

Arkansas, Texas, Louisiana (except the parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terre Bonne, Lafourche, Ste. Marie, St. Martin, and Orleans, including the city of New Orleans), Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia, (except the forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Ann, and Norfolk, including the cities of Norfolk and Portsmouth), and which excepted parts are for the present left precisely as if this proclamation were not issued.

And by virtue of the power and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States and parts of States are and henceforward shall be free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defense; and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages.

And I further declare and make known that such persons, of suitable condition, will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God.

In testimony whereof I have hereunto set my name and caused the seal of the United States to be affixed.

Done at the city of Washington this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and of the
[L. S.] independence of the United States the eighty-seventh.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, Secretary of State.

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